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Enhancing procurement of security services: a comparative case study of Mangaung and Kimberly Correctional Centres

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In partial fulfilment
of the requirements for the
Master of Philosophy in Development Finance Degree

by

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ABSTRACT

This aim of this research is to explore two methods for procuring security services in South Africa. This research is a comparative case study between two correctional centers, which are the Mangaung Correctional Centre and the Kimberly Correctional Centre. The Mangaung Correctional Centre has been procured through Public-Private Partnership, where government procures services through a private party and the Kimberly Correctional Centre has been procured through the traditional public sector finance method.

The main objectives of the study is to compare and contrast the costs of incarceration in these correctional centres; to evaluate the quality of security services provided in these two correctional centres as well as to examine the most economic, efficient and effective method of procuring security services.

The research findings indicated that the incarceration costs for Mangaung Correctional Centre were far more than the costs for Kimberly Correctional Centre, which poses a threat of affordability for the Department of Correctional Services. The research study also found in terms of the quality of security services provided in Mangaung Correctional Centre, there have been no escapes or riots reported in the centre for a very long time, on the other hand, the research has found that there has been a compromise in the quality of security services provided in Kimberly Correctional Centre because the centre has experienced violent riots in the recent years and there has been security threats due to the loss of the master key.

It emerged from the research findings that there is generally a lack of monitoring and evaluation especially when it comes to the issue of incarceration costs in Mangaung Correctional Centre because the costs have increased by more than 100 per cent since inception, this is far more than increase in average inflation for the period reviewed.

The research concluded by providing recommendations for consideration of procuring security services in future. Some of the key recommendations made in this research are that before government enters into any major contract, unless the feasibility study confirms the affordability of the project, then the government should not pursue the project further. The research further recommended that the government negotiators represented in the negotiation processes and awarding contracts should be capacitated, more especially in the area of finance and law to ensure that they understand the complexities and technicalities involved during the processes.

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GLOSSARY OF TERMS

Affordability – In PPP terms, means that the financial commitments to be incurred by an institution in terms of the PPP agreement can be met by funds that are designated within the institution's existing budget for the institutions function to which the agreement relates to; and/or destined for the institution in accordance with the relevant treasury's future budgetary projections for the department (PPP Manual, 2004).

Calendar year - A period of twelve months, from 01 January to 31 December.

Correctional Centre/prison - A facility used for confinement of convicted and awaiting trial offenders.

Department of Correctional Services –is one of the thirty eight (38) government departments in South Africa. It is mandated to enforcing sentences of the courts in the prescribed manner; detaining all prisoners in a safe custody whilst ensuring their human dignity; as well as promoting the social responsibility and human development of all prisoners and person subject to community corrections (Department of Correctional Services, 2012)

Financial year – For a government department or a public entity, financial year is the period of twelve months from 01 April to 31 March.

Free State Province – one of the nine provinces in the Republic of South Africa

Incarceration – Safeguarding or safekeeping of offenders.

Inmates – Any person, whether convicted or not, who is detained in custody in any correctional centre or who is being transferred in custody or is en route from one correctional centre to another.

Interest Rates - For the purpose of this research, interest rates is the discount rate use to compute the Net Present Value of a project.

Minister of Correctional Services - The Minister of Correctional Services is the Executive Authority of the Department of Correctional Service, appointed by the President and accountable to Parliament.

Net Present Value -

Northern Cape Province – One of the nine provinces of the Republic of South Africa

Overcrowding – In terms of prison population, refers to where the actual prison population is more than the prison capacity.

Public-Private Partnership – A partnership between a public party, (a government department, public entity or municipality) and a private party, where the private party undertakes the responsibility of public sector in terms of financing, building, and operating a state asset/ or delivery of public goods and services, over a concession period, usually over a long period of time.

Security Services -

Sentenced Offenders – A convicted person sentenced to incarceration or correctional supervision.

Value for Money – The provision of the institutional function or the use of state property by a private party in terms of the PPP agreement results in net benefit to the institution defined in terms of cost, price, quality, quantity, risk transfer or combination thereof (PPP Manual, 2004).

ABBREVIATIONS

AG	Auditor-General
ANC	African National Congress
AO	Accounting Officer
APP	Annual Performance Plan
ASGI-SA	Accelerated and Shared Growth Initiative for South Africa
BBBEE	Broad Base Black Economic Empowerment
BEE	Black Economic Empowerment
CPA	Criminal Procedure Act
CPI	Consumer Price Index
CSA	Correctional Services Act
DCF	Discounted Cash Flow
DCS	Department of Correctional Services
D-G	Director-General
DJCD	Department of Justice and Constitutional Development
DoD	Department of Defence
DoP	Department of Police
DSD	Department of Social Development
DTI	Department of Trade and Industry
EEE	Effective, Efficient and Economic
ENE	Estimate of National Expenditure
ESKOM	Electricity Supply Commission
ISCOR	Iron and Steel Corporation
IT	Information Technology
JIPSA	Joint Initiative on Priority Skills Acquisition
KCC	Kimberly Correctional Centre
KSCC	Kutuma Sinthumule Correction Centre
MCC	Mangaung Correctional Centre
MDG	Millennium Development Goals
MTEF	Medium Term Expenditure Framework
NPM	New Public Management
NPV	Net Present Value
NRF	National Revenue Fund
NT	National Treasury
PFMA	Public Finance Management Act
PPP	Public-Private Partnership
RSA	Republic of South Africa
SACS	South African Custodial Services
SCOPA	Standing Committee on Public Accounts
SHA	Shareholders Agreement
SOEs	State-Owned Enterprises
UNs	United Nations
VfM	Value for Money

SYNONYMS

The following concepts will be used as synonyms throughout this research report.

- Department of Correctional Service; the Department; DCS
- Director-General; Accounting Officer
- Government/State
- Kimberly Correctional Centre; KCC
- Mangaung Correctional Centre; MCC
- Minister; Executive Authority
- National Treasury/ Treasury
- Personnel; officials; staff; workers
- Prison; correctional centre; correctional facilities
- Prisoner; inmate;
- Thesis; dissertation; research study

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First and foremost, I would like to thank God Almighty; my Lord and Saviour for the strength and courage he has given me to finish this research project and for many blessings he has blessed me with.

Matthew 6:33 “But seek ye first the Kingdom of God and His righteousness and all these things shall be added onto you”.

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1 INTRODUCTION

1.1 INTRODUCTION

South Africa as a developing country is faced with many developmental challenges, including challenges of high unemployment rate; high crime rate; high illiteracy rate as well as inequality. These are some of the many challenges that are affecting many South Africans and government has to address these challenges by giving priority to these challenges.

It is often argued that each of these challenges has unintended consequences that tend to be unfavourable for any country. One of the most common unintended consequences is crime. Crime is currently associated with high unemployment rate, high illiteracy rate as well as high poverty rate. It is often argued that when a government has addressed these issues, there is often a decline in the crime rate, and when the crime rate is high, the other sectors of the justice system are also affected.

The Department of Correctional Services (DCS) and its correctional centres are mostly affected when the crime rate is high, because they need to ensure that the offenders are imprisoned. South Africa is currently facing a problem of overcrowding in its correctional centres, the prison population is way above the total prison capacity, on the other hand, the government is faced with budget constraints and has to ensure that it procures public goods and services in an efficient, effective and economic manner, this has compelled the South African government to explore venturing into prison privatisation to address this issue.

This research is a comparative case study research of two correctional centres (prisons) in South Africa, the Mangaung Correctional Centre (MCC) (Bloemfontein, Free State Province) and the Kimberly correctional Centre (Kimberly, Northern Cape). The research will examine as well as compare and contrast these correctional centres. These two prisons are very similar in nature, they are both maximum cell prisons and they are both male prisons. The only difference between the two prisons is that the Mangaung Correctional Centre (MCC) has been built and is now operated under Public-Private Partnership (PPP), meaning that the private party has built the prison and it now operates the prison for a concession period of twenty five (25) years. The private party is responsible for financing the prisons, and all financial, operational and technical risks are borne by the private sector, government only pays monthly unitary payment to the private party. The Mangaung Correctional Centres is one of the only two PPP prisons in South Africa, the other one being the Kutuma Sinthumule Correctional Centre, (Limpopo province).

On the other hand, the Kimberly Correctional Centre (KCC) has been built by government and the government currently operates the prison itself. This prison is run in the “traditional” manner, like any other prison in South Africa. This prison has been built with the similar technology like the other two PPP prisons.

The research will compare and contrast the cost per inmate for each prison, the total cost incurred for the incarceration of prisoners.

The research will also seek to determine if there is value for money derived from the private provision of the security services in Mangaung Correctional Centre. Value for money may not necessarily be in monetary terms but also in non-monetary terms, including the technology

used in both prisons, number of employees employed in each prison, services and training offered to offenders as well conditions and quality of prison services offered in these prison. This chapter will look at the background and context of correctional services in South Africa, the problem statement, the purpose and significance of the research, possible research questions and research scope as well as research assumptions.

1.2 BACKGROUND AND CONTEXT

Correctional centres in South Africa are over-crowded, under-staffed, ill-designed and the building structures are deteriorating. The DCS is struggling with safe keeping and incarceration of prisoners and cannot contribute towards the rehabilitation of criminals without the necessary facilities and resources. In light of increasing prison population and the lack of funds or limited budget available, governments around the world, including South Africa have turned to private sector involvement in the provision of public goods and services, including correctional services.

In South Africa, there is currently inadequate funding for capital programmes to build and renovate existing prisons. This means that there is slow progress on the building and renovation of the prison facilities in the country, whereas on the other hand the crime rate is continually on the rise, hence prison population is on the rise and is continually increasing. It is very imperative for the Department of Correctional Services to utilise its limited budget in the best possible manner. What makes the matters worse for the DCS is that it is on the receiving end of the criminal justice process and has no control over the number of persons flowing into its correctional centre on a daily basis.

The crime rate in South Africa has increased over the past years and it has affected prison population. This has put a lot of pressure on the prison facilities in South Africa. The prison capacity in South Africa at 30 April 2012 was at 118 968 and the actual prison population was at 156 659, the occupancy level rate was at 131.7 per cent as at 30 April 2012 (International Centre for Prison Studies, 2012). When compared with prison statics for 2010, the prison population in South Africa was 164 793 and the actual prison capacity was at 118 968, the occupancy level rate was 138.51 per cent, this represents a slight decrease in prison population by 8 134, this is mainly due to the slight decrease in the crime rate statistics in the country. Although there has been a slight decrease in the prison population statistics in the country, the prison population is still relatively high and this presents a challenge of overcrowding for the Department of Correctional Services

From the above discussion, it is apparent that the issue of crime rate in South Africa is an issue that should be taken and treated with great care. This is an issue that is highly likely to affect other departments, including the Department of Correctional Service (DCS), which is the custodian of offenders in South Africa.

1.2.1 Overview of the Department of Correctional Services (DCS)

The Department of Correctional Services (DCS) is one of the thirty eight (38) government departments in South Africa, (South African Government Information, 2011). The mandate of the DCS is to provide correctional services and placing rehabilitation at the centre of all departmental activities. The DCS is also responsible for integrated application and direction of all resources to focus on the correction of offending behaviour, the promotion of social responsibility and the overall development of people under correction, (Department of

Correctional Services, 2012). This department is one the key government departments in South Africa, given its mandate and its responsibilities. In terms of budget allocation, the DCS received a budget allocation of R17 732 200 000 for 2012/13 financial year, this represents 1.83 per cent of the total budget allocation of R969 365 500 000, (National Treasury, 2012).

The biggest challenge of the Department of Correctional Services, like most government departments in South Africa or any developing country is to meet its delivery targets within its given budget. In South Africa, all government departments are required to provide public goods and services in an efficient, effective and economic (EEE) manner. In other words, departments are required to ensure that when they procure for the provision of public goods and services they should ensure that their procurement meets the EEE requirements.

There are two main role players in the provision of public goods and services, the government (state) and the private party. The idea is that when the government cannot provide the public good optimally by itself, it can procure the public good from the private sector to provide the public good or service. There are many theories and options in which the government and private sector can work together to provide the public goods and services, one of them are through Public-Private Partnership (PPP). There have been many arguments in the past on whether or not the provision of public goods should be left entirely with government or whether the private party should also play a role.

Many opponents of government have argued that government alone cannot provide the public goods and services in an efficient, effective and economic manner. They have argued that the involvement of private sector would be beneficial to ensure improvement in service delivery. On the other hand some proponents of government and opponents of private sector have argued that the interest of private sector has and will always be profits before service delivery. This becomes a very interesting topic and one that is worth exploring and requiring further researching.

The Department of Correctional Services (DCS) is one of thirty eight (38) government departments in South Africa, (South African Government Information, 2011). The mandate of the DCS is to provide correctional services and placing rehabilitation at the centre of all departmental activities. The Department of Correctional Services is also responsible for integrated application and direction of all departmental resources to focus on the correction of offending behaviour, the promotion of social responsibility and the overall development of people under correction, (Department of Correctional Services, 2012).

The Department of Correctional Services is one of the key government departments in South Africa, not necessarily in terms of budget allocation but in terms of sector classification. This department is classified under the Justice, Crime Prevention and Security cluster. It is very imperative that the department fulfils its mandate and one of the means or ways to achieve its mandate is to ensure that it manages its finances in an economic, efficient and effective manner, as well as to provide quality services in a cost-effective manner.

The Department of Correctional Services currently manages over two hundred and sixty (243) correctional centres across South Africa, of which two are PPP prisons i.e the Mangaung Correctional Centre (MCC) (Free State) and the Kutuma Sinthumule Correctional Centre (KSCC) (Limpopo). The department is currently facing challenges with its correctional

centres and some of the challenges include; overcrowding, poor security services, prison escape, amongst others (Goyer, nd).

The following are key programmes within the department: (Department of Correctional Services, 2012).

- Administration;
- Incarceration;;
- Rehabilitation;
- Care; and
- Social Reintegration.

This research will look specifically on the Incarceration programme of the DCS. The strategic objective of this programme is to “prevent persons incarcerated from participating in criminal activities and escaping, by providing an environment that ensures the safety of all persons entrusted to the department’s care as well as the safety of the public” (Department of Correctional Services, 2012).

This programme consists of the following sub-programmes:

- Security operations;
- Facilities;
- Remand detention; and
- Offender management.

There are several essential services that are offered by DCS in each of its correctional centres include the provision of the following services:

- Security services;
- Maintenance;
- Health Care Services;
- Catering;
- Educational and Development programmes; and
- Vocational training and industries.

The above are some of the key essential services that are provided in each correctional centre. The above list is not exhaustive and services provided generally differ from one correctional centre to another, however, the above mentioned services are likely to feature almost in all correctional centres. The research will concentrate mostly on the provision of security services in correctional centres.

1.2.2 Overview of the Mangaung Correctional Centre (Bloemfontein, Free State Province)

The Mangaung Correctional Centre (MCC) is one of the only two PPP prisons in South Africa, it is situated outside Bloemfontein. It is a maximum security, adult male prison. It has capacity to house 2 928 (two thousand nine hundred and twenty-eight sentenced inmates (Department of Correctional Services, 2012). The contract is managed in terms of defined contractual outcomes and it is managed by GSL South Africa (private party). Mangaung

Correctional Centre is a privately operated correctional centre, in partnership with the Government of South Africa. The contract agreement is twenty five years.

The PPP contract between DCS and GSL South Africa (the private party) was signed on 24 March 2000. Construction work commenced on site on 01 April 2000 and was completed by 30 June 2001, MCC became operational on 01 July 2001 (Venter). The initial cost for capital expenditure for MCC was R435 million (four hundreds and thirty-five million rand) (Department of Correctional Service, 2002).

1.2.3 Overview of the New Kimberly Correctional Centre (Kimberly, Northern Cape Province)

The New Kimberly Correctional Centre (KCC) is a “conventional” correctional centre that has been built and operated by the Department of Correctional Services. This correctional centre has been built with the similar technology as with the two other PPP correctional centres in South Africa, the New Kimberly Correctional Centre has been built by Government for the sole purpose of comparing and contrasting the PPP prisons and the conventionally prisons that are built by Government.

The construction at the New Kimberly Correctional Centre commenced on the 14th of November 2006 and the facility was occupied in early December 2009 (Department of Public Works, 2010). The Kimberly Correctional Centre is very similar to the two PPP prisons in the sense that it is also a maximum cell prison, it is also a male prison and it has inmate capacity of 3 000 prisoners. The original budget for the prison was R621.0 million (six hundred and twenty-one hundred million) (National Treasury, 2011); the capex cost of Kimberly Correctional Centre is also similar to the capex cost of Mangaung Correctional Centre, taking into effect the Time Value of Money.

1.2.4 Implications for South Africa

The study will have the following implications for a country like South Africa, that is facing budget constraints; firstly, the research will assist in determining whether or not South Africa should consider any PPP contracts in future and what are the other requirements that need be met to ensure that these contracts are affordable and there is value for money derived from these contracts.

Secondly, the study would also assist in ensuring that there is improvement in the quality of prison services offered.

Furthermore, the long run benefits of this study is that there is a possible relief of the already strained departmental budget for the DCS, which might result in funds diverted to other programmes like building of more prisons to address the issue of prison overcrowding.

1.3 PROBLEM STATEMENT

South Africa, like many other developing countries is facing major challenges, including unemployment, poverty, inequality, all these factors affect, in one way or the other the crime rate in the country (Goyer, nd). In this case, the Government has got a role to play by providing the “public good” which in this instance is correctional services/or prison services. The Department of Correctional Services (DCS), like any other department in South Africa has a mandate to ensure that services are provided effectively, efficiently and economically

(EEE) to the citizens. However, there have been concerns in recent years that ‘privatisation’ or the private provision of public goods results in government having to pay even more than it would have paid, should it have run the facilities or provided the services itself.

The research will seek to determine the following:

- **Affordability:** Whether or not the private provision of security services is affordable for the South African Government. In this area, the research will focus specifically on the cost structure of the two correctional centres, the services offered and paid, as well as other benefits derived.
- **Quality of security services :** The research will also determine the quality of security services derived from the correctional centres. The research would compare and contrast the technology used, number of employees employed, training provided for employees, conditions of employment between the two prisons.
- **Ratio of prison official to prisoner:** this ratio will be analysed and compared and contrasted between the two prisons.

1.4 PURPOSE AND SIGNIFICANCE OF THE RESEARCH

1.4.1 Purpose of the research

The purpose of the research is to analyse, assess, compare and contrast two similar correctional centres in South Africa, the Mangaung Correctional Centre (Free State), which is a PPP prison and the Kimberly Correctional Centre (Northern Cape) which is currently run by the government . The research will look specifically at the security services provided in this centre, these prisons are very similar in nature because they are both maximum cell prisons and are both male prisons.

The research would be a case study and would critically examine and compare the quality of prison security services for both prisons; the cost per inmate; the total cost per annum and the total amount paid by the Department of Correctional Services (DCS) on each prison.

The research will specifically look at the security services in the two correctional centres, with specific focus on the operation, maintenance, costs per inmate, total security cost per annum and the total cost (value) that DCS is paying towards prison security services on Mangaung Correctional Centre (a PPP Prison) compared to the New Kimberly Correctional Centre (which is run and managed by DCS).

In addition, the research would also examine and analyse the affordability of the security services provided through the Public-Private Partnership, affordability would look at computing the Present Value (PV) of the cash outflows and cash inflows that DSC is expecting to pay and receive over the PPP project life.

The primary and secondary objectives of the research are the following:

- **Primary and general objectives**

The primary objectives of the research will be to examine and evaluate the most cost effective and efficient method of incarcerating prisoners, looking at a PPP prison, Mangaung

Correctional Centre and a normal prison, Kimberly Correctional Centre. Under the primary objective sections the following areas will be looked at:

- Comparing the security service in MCC and KCC;
- Determine the total costs incurred for construction and maintain MCC and KCC;
- Comparing and contrasting the costs of incarceration in these two prisons; and
- Examining the most efficient and effective procurement method of security service.

Secondary objectives

The secondary objectives of the research will look at the following areas:

- Value for money of the private prisons;
- Present Value of KCC to determine the affordability of this prison;
- The conditions and state of prison facilities; and
- Personnel involved.

1.4.2 Significance of the research

In the past few years, there have been many arguments about whether or not the South African government should venture into any PPP projects, particularly the PPP prison. The opponents of the PPP projects have argued that the costs of running these projects is far too high compared to the other prisons. This has put a lot of pressure on South African government and on the Department of Correctional Services in particular.

The opponents of the PPP prisons have argued that the high escalation costs of the PPP prisons do not assist the government in its drive to provide services in an effective, efficient and economic manner. Due to significant pressure the DCS experienced from opponents of these PPP projects, the South African government was forced to reconsider further four PPP prisons that were at the initiation stage. These PPP prisons were subsequently cancelled.

However, on the other side, the proponents of the PPP prisons have argued that the government alone can never address the challenges that the prisons are facing. The challenge of overcrowding in prisons still continues to be an issue that needs to be attended to as a matter of urgency. They argue that this is one of the reasons the government needs to involve other role players, including the private party in addressing this issue.

This research is significant and will contribute in the following ways:

Firstly, the research will determine which of the two prisons is more cost effective for the South African Government.

Secondly, the research will determine if there is any value for money derived from procuring public goods and service following the PPP procurement method. The value for money derived can be either be monetary value for money or non-monetary value for money.

In addition, the study will further assist on which procurement option is best suited for a developing economy like South Africa.

Furthermore, the study will assist policy makers in their decision making processes as to which procurement process is most cost effective for government and what issues and areas need to be taken into account when considering the PPP contracts.

1.5 RESEARCH QUESTIONS AND SCOPE

1.5.1 Research questions

The following research questions will form part of the research:

- How much is the government expenditure on security services in public prison? With specific reference to the Kimberly Correctional Centre.
- How much the government is currently paying for security services in PPP prisons that is run by the private party? With specific reference to the Mangaung Correctional Centre
- Quality of security services provided in these two correctional centres?
- Are there any incidents of security threats in these two prisons?
- Number of murders and suicides in MCC and KCC
- Quantitative difference between the PPP prison price per annum and the government run price per annum?
- What are the other costs, if any that government incurs on the PPP prisons that the government does not incur on the prisons that it runs itself?
- How much is the government likely to incur in the future for the PPP prisons in comparison to the costs of the government run prisons?
- The quality and quantity of personnel involved in both prisons
- How many escapes for both prisons in a year?
- Why are there escapes?
- Prison official to prisoner ratio for each prisons?

1.5.2 Research Scope

The scope of the research would include only the Mangaung Correctional Centre and the Kimberly Correctional Centre. No other prison will be included in the scope for the purpose of this case study research. The research will be limited to these two prisons of the Department of correctional services.

Furthermore, the research will also be limited to incarceration programme as a core function of the department and will not include other programmes and services that are offered by the Department of Correctional Services.

1.6 RESEARCH ASSUMPTIONS

The following assumptions are assumed:

- A minimum standard of human dignity is maintained in both prisons;
- All required information, documentation and resources will be readily available;
- Personnel from the private companies would be willing in providing information;
- Officials at National Treasury and DCS would cooperate throughout the duration of the research; and
- The answers provided would be a reflection of the accurate and updated information.

1.7 RESEARCH ETHICS

The research has been conducted in compliance with the University of Cape Town, Graduate School of Business research guidelines. The research had no potential harmful consequences for participants.

1.8 CHAPTER OUTLINE

The following will be the chapter outline for the research titled: Enhancing procurement of security services: A case study of the Mangaung and the Kimberly Correctional Centre.

Chapter one	Introduction
Chapter two	Theoretical frameworks and literature review
Chapter three	Legislative and regulatory framework
Chapter four	Research methodology
Chapter five	Research findings, analysis and discussion
Chapter six	Research conclusions
Chapter seven	Recommendations for future research
References	

2 THEORETICAL FRAMEWORK AND LITERATURE REVIEW

2.1 INTRODUCTION

Chapter two of this research study focuses on two broad areas, the theoretical framework and the literature review on the subject matter. The section on theoretical framework provides an overview of the theory on public goods; the debate about the optimal role of government; theory of privatisation; theory of Public-Private Partnerships in South Africa; as well as the theory of provision of security services in South Africa. The section on literature review provides an analysis on the literature available for privatisation of prison services in South Africa.

This is very important especially for a developing country like South Africa with limited finance and budget constraint and capacity constraints, like skilled and experienced personnel.

One of the key areas that chapter two has covered is the role of government, which is to provide public goods and services to its citizens. There is a range of public goods and services that each government department needs to provide, given its limited budget. In most cases government experience challenges in meeting their delivery targets and it has been suggested that perhaps government alone cannot be entrusted with the ultimate provision of public goods and services, which is a motivation for privatisation. Chapter two further provides a theoretical overview on privatisation, motivations for privatisation and under what circumstances should government decide to venture into privatisation, with specific references to the developing countries.

The chapter also looks at advantages and disadvantages of privatisation, types of privatisation of services, cases of privatisation of services in South Africa have also been discussed.

2.2 THEORY ON PUBLIC GOODS

Government of any country has roles and responsibilities. One of major responsibilities of Government is the provision of public goods. Public goods by definition are those goods and services that have two key characteristics, which is non-excludability and non-rival.

Non-rival of the public goods implies that the consumption of the good by an additional person does not affect the “enjoyment” or marginal benefit of the other person. On the other hand, non-excludability of public goods implies that a member of the community cannot be excluded from enjoying the good. Non-excludability of the public good means that a person cannot be excluded by price, age, race, gender or any other exclusion from enjoying the public good. (Alagidede, 2011).

From the definition above, it is apparent that there are very few goods that meet the two characteristics of the public good. Many goods that are perceived to be public goods do not meet the two main characteristics. For example; education is often perceived as a “public good” but education does not meet the characteristic of non-rival because any given classroom can take a limited number of students. Any additional student will affect the marginal benefit of the other student. As soon as the classroom gets crowded, it affects the concentration of other students. In addition, education is also exclusive in nature, because

schools, even public schools can easily exclude a pupil from enrolling, either by marks grade or age.

However, Government is required to provide these “public goods” although they do not meet the two criteria; the main reason why Government would need to provide these goods is because of market failures. Market failure occurs when freely-functioning markets fail to deliver an efficient allocation of resources, resulting in economic loss and social welfare. (Riley, 2006).

Market failure occurs in many instances and for different reasons, including the following: information asymmetry; externalities; free-rider problem; as well as the lack of information. Market failure in cases of externalities can occur when the private party fails to control costs and profits/returns. Another instance where market failure can occur is that the infrastructure projects take long time before they show returns, it is possible that the project can run for a number of years before the break-even point.

It is the responsibility of Government to intervene when market failure occurs. Government can intervene in the markets in different ways; including allocative intervention; distributive intervention; as well as stabilisation intervention (Alagidede, 2011).

However, Government intervention is not an absolute solution to market failure. In actual fact, Government intervention can result in unfavourable results. Government intervention to resolve market failures can also fail to achieve a socially efficient allocation of resources. Government failure is a situation where government intervention in the economy to correct a market failure creates inefficiencies and leads to misallocation of scarce resources. (Alagidede, 2011).

Government failure is caused by a number of factors including the following: bureaucratic failure; crowding out effect; log rolling; pork barrel spending; as well as rational ignorance. (Alagidede, 2011).

2.3 DEBATE ON THE OPTIMAL ROLE OF GOVERNMENT

From the discussions above, it is apparent that the provision of public goods cannot be left entirely to the markets because of market failure, which requires government intervention. On the other hand, government intervention can result in government failure. Therefore, there is a need to strike a balance between the market and government. There has to be collaboration between the private sector and government when it comes to the provision of public goods. In any country, whether developing or developed, there are two major role players in terms of service delivery, job creation and provision of public goods.

There are several ways in which government and the private sector can work together. One of the forms of this collaboration is through a Public-Private Partnership (PPP). A Public-Private Partnership is a private provision of a public good.

A PPP is defined in South African law as a contract between a public sector (government department/government entity or municipality) and a private party, in which the private party assumes substantial financial, technical and operational risk in the design, financing and operation of a project or service. (PPP Manual, 2004).

According to Milton Friedman, government should not intervene in market and should. He argues that government's intervention in free market system can be actually the cause of market failure. He argues that "the government's solution is often as bad as the problem" (An Economists' protest, 1975, p.g 6).

In South Africa, the Cabinet approved the appointment of an inter-departmental task team to develop a package policy, legislative and institutional reforms to create an enabling environment for PPPs. To date, there are more than one hundred PPP project in South Africa, across all sectors, including hospitals, transport, office accommodation and correctional service centres (prisons), (PPP Manual, 2004).

2.4 THEORY ON PRIVATISATION

Privatisation may be defined in different ways by different scholars, the most common and simple definition of privatisation is "Privatisation is the transfer of a function, activity, or organisation from the public sector to the private sector", (Cowan, 1990); whereas on the other hand, privatisation can be defined as "the practice of engaging the private sector in some aspects of the functions and responsibilities of government operations" (England, 2011). The World Bank defines privatisation as "a transaction or transactions utilising one or more of the methods resulting in either the sale to the private parties of a controlling interest in the share capital of a public enterprise or of a substantial part of its assets" or "the transfer to private parties of operational control of a public enterprises or a substantial part of its assets" (Alagidede, 2011).

The concept of privatisation is not new and it can be traced as far back as the days of Mr Adam Smith¹. The great trading companies of the early period of European empire building, such as the British South Africa company and the Dutch East Indies company, were in private hands until they were taken over by governments as part of the rise of global foreign policy interests in the imperialism of the nineteenth century, (Cowan, 1990). Virtually all governments, both in developed and developing countries at any level seek some form of service from private sector providers. The past few decades have seen numerous instances of privatisation which embrace universal ideologies either in favour or opposed to privatisation, this has led to a myriad of privatisation proposals that have failed to benefit the governments enacting them and in certain cases have caused unintended consequences.

In his book titled "Privatisation in the developing world". Mr Cowan states that the current renewal of interest in privatisation is a phenomenon mainly of the late seventies and early eighties. The issue of privatisation became a matter of national policy in the United Kingdom with the coming to power of the Thatcher government, which undertook the largest privatisations, the British Telecommunications and the British Gas. The efforts of privatisation have spread throughout Western Europe, particularly in France, but not as extensively as in the United Kingdom, (Cowan, 1990).

The concept of privatisation still remains a controversial area for most government. The prevailing view is that privatisation is often used as an economic or fiscal technique of government, fundamentally concerned with the transfer of government assets and services, from the public sector to the private sector. There are various stages that need to be followed and the rational perspective also presents policy making as a process which relies upon, and is

¹ Mr Adam Smith was a Scottish moral philosopher and a pioneer of political economy, he was born in 1723 and he died in 1790.

the application of rational techniques such as the gathering of empirical data, the systematic clarification of aims and objectives, cost-benefit analysis, economic modelling, and impact simulation, (Collyer, 2003).

Pro-privatisation advocates claim that privatisation addresses a diverse range of issues such as economic inefficiencies and lack of innovation in the public sector, political interference in the management of state enterprises, unemployment, to name but a few (Bradley and Neja, 1989).

Although the orthodox economic definition of privatisation is virtually hegemonic, other discipline areas have sought to develop alternative understanding of privatisation; some saw privatisation as fundamentally a political phenomenon rather than economic, administrative, or fiscal. They have all argued that privatisation is a policy strategy used to shift power between various constituencies, alter the structural capacity of government and its responsibilities and its responsibilities, realign and restructure decision making and institutions and create new interest groups and classes, (Collyer, 2003).

Despite its strengths and pro-privatisation scholars and theories, there are shortcomings associated with this theory. Most anti-privatisation scholars have identified one of the shortcomings of privatisation as the emphasis on policy as the outcome of the action of key individuals. Many argue that privatisation leads to undesirable consequences, including unemployment and reduces power and interaction between public figures (Feigenbaum and Henig, 1994).

From the discussions above, it is apparent that there are two main role players in the case of privatisation, the private party and the public party, so if the sale or transfer of assets is between two private parties or two public entities, it cannot be classified as privatisation. One of the key observations for privatisation is that the goods and services that were previously provided publicly can be obtained privately.

2.4.1 Forms of privatisation

Privatisation can take many different forms, all of which entail some form of private sector participation in product or service delivery. The most common forms of privatisation are the following: (Alagidede, 2011).

Management contract: Services that were hitherto provided by a state-owned firm is passed on to a private provider. Ownership however, remains with the state and all required capital investments continue to be provided by the state. There is usually a performance contract that is signed by government and the outsourced management. A typical example of this form of privatisation is in Gambia, where the Gambian government issued a management contract to a private party to manage Gambia Utilities Corporation, (Alagidede, 2011).

Lease: In this form of privatisation, a private firm takes the responsibility of operating and maintaining the assets of a hitherto publicly owned firm. Just like in the case of management contract, government retains ownership as well as responsibility for financing capital investments, usually through a special vehicle established for the purpose. This form of privatisation is usually of a fairly long-term nature. An example of this form of privatisation is that of government of Guinea who entered into a lease arrangement for private sector operation of water services in the capital city, Conakry and sixteen other cities and towns.

Another example of lease as a form of privatisation is in Gambia where a lease contract was issued for the operation of Marine Dockyard, (Alagidede, 2011).

Concession: In this form of privatisation, a private firm takes over responsibility for operating and managing the assets of a public enterprise, as in the case of a lease arrangement. However, unlike a lease, the private firm takes on the further responsibility of financing long term capital investment of the firm. This form of privatisation also provides incentives for the private operator to minimise cost and increase efficiency. Concession is of a very long-term nature, usually, 30 years and above. This form of privatisation is very common in the utilities sector and Nigeria is an example of a country where concessions were issued for the operation of many ports, (Alagidede, 2011), and is mostly used for construction of toll roads and other infrastructure projects.

Divestiture: Publicly owned assets are sold to a private sector, meaning that management as well as all future capital investment requirements become the responsibility of the new private sector owners. This can be done by auction (where the firm is sold through a bidding process to the highest bidder); or by private placement (where the shares of a company are sold through direct negotiation); or initial public offering, where shares are sold through a public offering on a local stock exchange. Divestiture can either be partial, e.g 49 per cent of the sale, or full scale, which entails total transfer to the private sector, (Alagidede, 2011).

Joint venture: This form of privatisation is a partnership between an existing public enterprises and a private investor (Public-Private partnership). It can be an acceptable solution in a situation where full-scale privatisation faces much resistance. Risks are generally shared and the struggle for control can be an impediment to success, however, economies of scale and access to new technologies and management expertise can be positive outcomes of this form of privatisation, an example is Debswana Diamonds, a joint venture between government of Botswana and De Beers, (Alagidede, 2011).

Asset sale: Selling off the assets of an enterprise, probably following the cessation of operations. It is usually less complex than the other forms of privatisation. However, the possibility of a number of assets being left over without a buyer is there. Given its nature, this method tends to create much negative public perception. Government tend to be accused of selling off the public assets at give away prices in this form of privatisation. Such sales are usually inevitable and are usually affected by auction, (Alagidede, 2011).

During the nineteenth centuries, the most popular form of privatisation was the divestiture, where the publicly owned assets may be completely transferred by way of sale to private individuals or firms after which government bears no responsibility for the operation of the assets, (Cowan, 1990). At that time, this was the most desirable form of privatisation, but often the most difficult to accomplish. The consequences of government giving away 100 per cent of the state assets became unbearable and it was desirable that government retains some form of ownership or control in the public asset.

Partial divestiture emerged to be the best alternative in the late eighties; in this case, the state retains partial ownership of the divested assets by selling a portion to individual buyers either directly or by means of a public stock floatation. The proportion divested may leave the government with either a majority or minority share, but the practical effects is to put the current operation of the firm or service in the hands of private managers; the government remains a shareholder and may be represented in the board.

In the book titled “Privatisation and deregulation in global perspective”, Gayle and Goodrich provided an interesting perspective on the topic of privatisation, their argument is that, if government is meant for providing a wide range of collective goods, which do not necessarily lend themselves to market exchange, the public sector is naturally a highly visible target, (Gayle and Goodrich, 1990). They argue that the unrestrained public sector expansion inevitably leads to public policy failure, as problems of communication, coordination, effective cost-benefit control, and revenue satiation accumulate, in this case, privatisation represents a logical reaction. The process of privatisation denotes reducing the roles of government, while increasing those of private sector in public sector activities or asset ownership. This leads us to the topic discussed below on the motivations for privatisation.

2.4.2 Motivations for privatisation

This section of the research will look at the motivations for privatisation, in other words, what is the motivation behind many governments or public entities decide to venture into privatisation. A careful analysis of what has led to various governments, whether developing or developed countries to contemplate privatisation is necessary. It is important that the motives of the government in seeking assistance for a privatisation strategy be carefully evaluated in advance of any offer to help because they can influence the techniques of divestment and sale that may be utilised. It is crucial for any government to consider a number of factors before taking any major decision on privatisation. The following arguments usually form the basis for the motivation of privatisation:

Economic benefits: One of the major benefits of privatisation is in terms of economic benefits. A private firm is a corporation in which prices and output are guided by the product market, while the capital market constrains costs. Private firms can trade, transfer partial ownership rights by the sale of shares, and be acquired by investors who perceive unexploited profit opportunities. The expected economic benefits of privatisation include increased production quantity, improved output quality, reduced unit costs, growth opportunities over the longer term, as well as the generation of new technologies, (Gayle and Goodrich, 1990).

Privatisation encourages the emergence of managers who are willing to champion an entrepreneurial and risk-taking culture. Corporations then become more results oriented, bringing in new attributes and marketing styles, improved management information systems, as well as reduced overhead costs.

To mention few cases where the relative economic efficiency of private as opposed to public production was in Brazil, a study by the World Bank in 1982 found that road maintenance by the private sector resulted in cost savings of 37 per cent compared to the costs incurred by the Brazilian National Highway Department, (Gayle and Goodrich, 1990). Similar cases are in Ivory Coast, where public buses covered only one-third of the vehicle miles per employee of private buses, while in New York City, private buses cost 10 per cent less per hour operated than the costs for public buses.

The issues discussed above were the main reasons and motivation for privatisation in the earlier years and the circumstances have since changed and new information have since emerged and there is now a need to relook at whether or not privatisation still bring economic benefits, specifically, in developing countries. This will be discussed and analysed later.

Improved innovation: In addition to economic benefits discussed above, other motivations for privatisation include the improved innovation. There are claims that suggest that privatisation addresses a very diverse range of problems and inefficiencies in the public sector, such as lack of innovation in the public sector, (Collyer, 2003). It is often argued that the transfer or sale of public asset from the public sector to the private sector will ensure that the private sector brings new innovation and creative ideas.

Pro-privatisation advocates often claim that privatisation addresses a range of issues, such as economic inefficiencies, ‘political’ interference in the management of enterprises, unemployment, as well as the high costs of public service, whilst it might be accepted that there is truth to these motivation, it is worthy to note that these arguments might be true to certain extent, however, circumstances differ from country to country. This argument will be explored further in the section that addresses advantages of privatisation.

Privatisation should not be seen as an absolute solution to every problem that government experiences with its service delivery issues. The road to privatisation has not been easy for both the developed and developing countries. There have been arguments in favour of privatisation as well as arguments against privatisation. Like any decision that a government of any country have to make, there are certain considerations that need to be taken into consideration.

First and foremost, the decision on privatisation requires a strong political will and the highest commitment from policymakers. Political leaders need to make extraordinary tough political and economic decisions. Privatisation, especially in a developing country like South Africa, with limited public finance requires the receptiveness and understanding of the civil society groups, labour organisation and the community at large. Privatisation can succeed only when the private and public sectors collaborate in creating a political-economic atmosphere that is conducive to privatisation.

The proponents of the concept of privatisation argue that privatisation improves enterprise performance, (Alagidede, 2011), their argument is that when the government asset or government enterprise has been transferred to the private party, there are positive benefits that are associated with privatisation, including the improved service delivery to the citizens, consumers will benefit as they will now be offered new improved goods and services. The proponents of privatisation argue that in most cases these assets are old and no longer profitable, so it is probable the best option for the state to opt for privatisation as most of the time they are running at a loss. The private party more often than not is in a better position to bring innovative ideas and new technology to enhance the performance of the entity. There are also arguments that privatisation can bring much needed capital, technology, management skills, enhanced services.

Some proponents of the concept of privatisation often argue that privatisation and the new private sector ventures have an impact of radically increase the number of first time shareholders in many developing countries. Privatisation may provide new share offerings to new buyers, this would encourage market growth, (Cowan, 1990).

In addition, there are also arguments that governments tend to benefit more specially with the management contracts, because this form of privatisation has the tendency to bring market discipline and technical know-how to state-owned firm and hence, all the efficiency gains are typical to market-oriented firms are likely to be realised. Moreover, the new private operators often have strong incentives to reduce costs and improve efficiency, (Alagidede, 2011).

Furthermore, government benefit from the reduced burden to undertake long term capital investments, given that such responsibility has been shifted to the private sector operator. The government also saves on operating and maintenance expenditure as this now becomes the responsibility of the private party.

A further ancillary benefit derived from privatisation is the expanded growth of a skilled entrepreneurial group. With privatisation comes new opportunities for new economic activities and training for new skills, (Cowan, 1990).

2.4.3 Arguments against privatisation

Despite its advantages as mentioned in the preceding paragraphs, privatisation is not without critics. As any remedy and action taken by government to address its economic problems, it has its vocal opponents, both in public and private sector. In South Africa, privatisation has also been questioned by civil society groups as well as the labour unions, this will be discussed in the latter section that will deal specifically with the case of South Africa.

The point that the critics of privatisation wanted to make was that the turn to privatisation is a reflection of a change in the value structure of western democracies that is not necessarily transferable to the developing world in the absence of the instruments, techniques and the financial skills that made it possible in developed countries, (Cowan, 1990).

The critics of privatisation have argued that by reverting back to privatisation means that the government and the economy will rely heavily on free market and private sector initiatives, which increases the exposure to market failure, that may need government intervention in future.

With specific reference to Africa and other developing countries, there is no guarantee that the relatively underdeveloped private sector is in a position to increase the efficiency of the state assets and lead to less corruption. This note of scepticism was mentioned in various reports and it also featured in the United Nations (UN's) Commission for Africa, which argued that privatisation in Africa was impossible because the private sector is simple not capable of taking over the functions of the state. Moreover, the argument was that the policy reforms leading to market-controlled prices demanded by structural adjustments lending and privatisation will result in poverty at the lower end of the social scale, while serving to enrich the private sector, (Cowan, 1990).

There are claims that the large-scale privatisation will have serious effects on the poor because they might end up paying more for the goods and services from the privately owned service providers.

There are also claims from the opponents of privatisation that governments generally tend to sell off these public assets at give away prices, and this usually results in employees that were previously employed in these firms losing their jobs, which further increases the unemployment rate, and have other unintended consequences in other socio-economic issues, (Alagidede, 2011).

2.4.4 South African privatisation experience

The public enterprise sector in South Africa has been to a large extent created by the apartheid regime, beginning in the 1920s with the establishment of Electricity Supply Commission (ESKOM) and the South African Iron and Steel Corporation (Iskor). In 1940, the Industrial Development Corporation (IDC).

The post apartheid government in South Africa inherited well over 300 state-owned enterprises, (Jerome and Rangata, 2003). In February 1988, the then President P.W. Botha announced plans to privatise several state-controlled industries, as well as state-operated transport, postal, and telecommunications services following dwindling resources as a result of economic sanctions and the global economic depression. In South Africa, State corporations had been the major recipients of large foreign loans that were called off in 1985, leaving them with serious capital shortages. At that time, it was envisaged that the proceeds from the sale of state corporations' assets could both ease the debt burden and provide government with new revenue for much needed social programmes, (Jerome and Rangata, 2003).

In 1995, the then Deputy President announced plans for wide-sweeping privatisation programmes which eventually got underway in 1996. The most affected sectors in South Africa were the broadcasting stations, resorts and related services, transport sector, amongst others. The aim was at increasing the efficiencies of State-Owned Enterprises (SOEs) through improved governance and competition, while seeking to attract foreign investment, technology and expertise.

Table 1 below depicts a list of some privatised entities in South Africa:

Table 1: Restructured enterprises in South Africa (1997 - 2002)

Entity	Date of transaction	Stake sold %	Total proceeds R Million	Proceeds paid to exchequer R Million
SABC radio station	March 1997	100	510	510
Telkom	May 1997	30	5 631	1 165
Sun Air	November 1997	100	42	21
Airports Company	June 1998	25	1 035	1 035
South African Airways	July 1999	20	1 400	611
Connex Travel	August 1999	100	15	0
Transwerk Perway	September 2000	65	19	0

Source: Toit (200) and National Treasury, (Jerome and Rangata, 2003).

In South Africa, there were new guidelines that were put forward with regard to five key areas, namely:

- The economic and social effects of restructuring;
- The development of appropriate regulatory and competitive frameworks;
- Promoting empowerment;
- Promoting corporate governance; and
- Improving the restructuring process.

In South Africa, the concept of privatisation has from the onset been highly controversial and politically charged and there has always been mixed opinions on the issue of privatisation. One of the most common challenges and issues with privatisation relates to the agency and credibility problems that are unleashed by the exercise as well as its income distribution implications. Much of the criticism is the perception that privatisation has been unfair, hurting the poor, the disenfranchised and in some cases beleaguered workers.

The African experience on privatisation has showed an increase in the privatisation in the 1990s, both in terms of number and value of transactions. By June 2000, a total of 3 387 transactions were reported to have been completed, with an estimated sales value of over \$7.14, as reported by the World Bank, (Jerome and Rangata, 2003). Just like in South Africa, privatisation activities in Africa peaked during 1994 and 1998, and stabilised since 1995. A general observation has been that many privatisation programmes in Africa have suffered from poor design, inadequate preparation and weak or fragmented implementation. This has been portrayed by long average time to complete transactions, huge number of incomplete transactions, lack of transparency in the privatisation transactions, these are some of the few challenges faced the privatisation transaction process in Africa.

2.5 THEORY ON PUBLIC-PRIVATE PARTNERSHIP

Public-Private Partnerships (PPPs) is another form of privatisation, and it is loosely defined as cooperative institutional arrangements between public and private actors, (Hodge and Greve, 2007). Most definitions of PPPs emphasise that PPPs are established because they can benefit both the public and private sector. The line of reasoning seems to be that both the public sector and the private sector have specific qualities, and if the those qualities are combined, then the end result will be better for all (Vaillancourt Rosenau,1999). There is an agreement in the literature that risk sharing is one of the big incentives for both the public sector and the private sector. Furthermore, there is the aspect of uncertainty of the future to take into account, and the knowledge that not everything can be written into a detailed contract (Williamson, 1985). There is also the prospect that the cooperation can result in some new product or service that no one thought of if the public organisations and the private organisations had kept to themselves. Finally, it has been noted that PPPs involves a longer term commitment, (Hodge and Greve, 2007).

The Dutch public management scholars Van Ham and Koppenjan (2001:598) defined a PPP as ‘corporation of some sort of durability between public and private actors in which they jointly develop products and services and they share risks, costs and resources which are connected with these products, (Hodge and Greve, 2007). There are few key characteristics that need to be noted in this definition, first and foremost, this definition underlines cooperation between public and private parties of some durability, this means that the collaboration does not include short-term contracts. Secondly, the definition emphasizes risk sharing as a vital component and other factors to be shared; this means that both parties in a partnership come together on equal terms in the sense that both have to bear parts of the risks involved. The third and most important characteristics of the definition of PPP is that parties jointly produce something (a product or a service), and both parties stand to benefit from mutual effort.

The South African law defines Public-Private Partnership as a contract between a public sector institution/municipality and a private party, in which the private party assumes

substantial financial, technical and operational risk in the design, financing and operation of a project, (PPP Manual, 2004). The types of PPPs in South Africa are defined as follow:

- Where the private party performs an institution/municipal function;
- Where the private party acquires the use of state/municipal property for its own commercial purposes; and
- Hybrid of the two.

Payment in any PPP scenario involves one of the three mechanisms:

- The institution/municipality paying the private party for delivery of goods;
- The private party collecting fees or charges from users of the services; and
- Combination of the two methods.

In South Africa, the cabinet approved the appointment of an inter-departmental task team to develop a package policy, legislative and institutional reforms to create an enabling environment for PPPs. To date there are more than one hundred PPP projects across all sectors, including hospitals, transport, office accommodation and correctional services (prisons) (PPP Manual, 2004).

2.5.1 Public-Private Partnerships in South Africa

In South Africa, the PPPs have been regulated under the Public Finance Management Act. Since 1999, PFMA was the main legislation that provided a clear and transparent framework for government and the private sector partners to enter into mutually beneficial commercial transactions, for the public goods and services.

However, over the past years, there has been progressively increased number of PPP transactions covering a wide range of sectors, including the transport sector, office accommodation, healthcare, eco-tourism, social development, correctional service and municipal services. The increased number of projects attests to the growing body of experience related to PPPs. There have been some key lessons learnt and the regulation developed to legislate PPP procurement in the country. In South Africa, there are four main legislations that regulate the PPP procurement, and these are:

1. The Public Finance Management Act (1999);
2. Treasury Regulation 16;
3. PPP Manual; and
4. Municipal Finance Management Act (2003) (MFMA).

The above legislation supports and reflects government's policy objectives for delivering infrastructure and public services, in line with its constitutional mandate, the PFMA and the MFMA both focus on delivering outputs through value-for-money solutions.

There are PPP projects in many sectors of the South African economy, including health, transport, office accommodation, tourism, toll roads, fleet management, prison services and education.

Table 2 gives a list and brief description of successfully implemented PPP projects in South Africa.

Table 2: PPP Projects in South Africa

	PPP Project	Department	Description
1.	Mangaung Correctional Centre	Department of Correctional Services	This is one of the first few PPP projects in South Africa, The private party is responsible for designing, building, financing, operating and transferring the building and prison facilities to the government at the end of the consortium period.
2.	Kutuma Senthomele Prison	Department of Correctional Services	The private party is responsible for designing, building, financing, operating and transferring the building and prison facilities to the government at the end of the consortium period.
3.	Inkosi Albert Luthuli Hospital	KwaZulu-Natal (KZN), Department of Health	This one of the few paperless hospitals in the world. The private party is responsible for the provision and regular upgrading of state-of-the art medical equipment, facility management and IT system.
4.	Free State social grants	Free State, Department of Social Development	This project allows pensions and other social grants to be provided to the rural poor using state of the art wireless technologies, the distribution method which uses electronic fingerprint recognition system,

			has created greater efficiencies and resulted in a massive reduction in fraud.
5.	The Department of Trade and Industry (DTI) Campus	Department of Trade and Industry	This project provides new head office accommodation for DTI and all its entities.

Source: (PPP unit, 2012).

2.5.2 Arguments for Public-Private Partnerships

Like the broader privatisation reform family, the concept of PPP has been the subject of much policy rhetoric. Just like any government initiative, there are proponents and opponents that are associated with it. The proponents of the PPP concept argue that the main reason for venturing into PPPs is that they can deliver better value for money than the traditional procurement method.

Public-Private Partnerships are an important service delivery mechanism because they can facilitate rapid infrastructure delivery, PPPs facilitate and speed up the process of construction of major and substantial infrastructure projects, especially for a developing country like South Africa where the government is pursuing the Accelerated and Shared Growth Initiative for South Africa (ASGI-SA)² (PPP unit, 2007).

There are also arguments in favour of PPP suggesting that they leverage private party capital to fund infrastructure. In the case of PPP, the private party will use its own money to build infrastructure on behalf of the procuring institution or government department. In the case of PPP procurement, the private party bears all the financial risks that are associated with financing the project, the private party secures a loan and there is an incentive on the private party's side to complete the construction on time and within budget.

In addition, proponents of PPP have also argued that PPPs encourage the injection of private sector capital, the use of borrowed private sector capital for a project means that the lenders of capital will apply rigorous measures to make sure that a project is viable and stays on tract. It becomes the primary duty of the private party to ensure that the due diligence, rigorous monitoring and control throughout the project.

Furthermore, it is often argued that when an institution has considered a PPP as a procurement vehicle, there is a high possibility that the specialists' skills will be developed and transferred to the public sector, (PPP unit, 2007). In most cases, the PPP contracts do specifically require that there is a transfer of skills from the private to the public sector. This

² ASGI-SA resulted from Government's commitment to halve unemployment and poverty by 2014. It was formally launched in February 2006. The Joint Initiative on Priority Skills Acquisition (JIPSA) was established a month later to address the scarce and critical skills needed to meet the ASGI-SAs. ASGI-SA is a national initiative that is supported by key groups in the economy, including business, labour, state-owned enterprises, government economic agencies and all spheres of government.

is particularly important, especially in the competitive environment, it is crucial that Government benefits from the private sector skills and expertise.

Moreover, there are also claims and arguments that when PPP encourages the injection of private sector capital, the economic activity of the country will improve and the issue of high unemployment rate is addressed and the credit ratings of the country is likely to improve. One of the key factors that the credit rating agencies consider when they give the credit rating to a country is the level of infrastructure and the economic activities taking place.

In their edited book, Graeme Hodge and Carsten Greve made reference to seven motivations for PPPs (Hodge and Greve, 2007, p.88)

- Improved focus on service delivery, by reducing the time and effort that an agency will spend on property-related matters;
- A requirement to pay only for contract infrastructure or facility related services and pay only when those services are delivered
- A very high level of confidence that infrastructure will be available on time and without cost blow-out
- An ability to hold provider financially accountable for the performance of particular infrastructure throughout its lifetime
- Access to the best technical and management skills
- Improved outcomes, by using competitive forms to stimulate creativity, pricing and delivery
- Access to infrastructure financing without additional government borrowing
- PPPs are being promoted as means to overcome the widespread lack of implementation of international policies and targets of the Millennium Development Goals (MDG), (Risse, 2011, p.117).

2.5.3 Arguments against Public-Private Partnerships

Despite the widespread acceptance and motivations for PPPs, there are challenges and criticism associated with the concept of PPPs. Opponents of PPPs have argued that PPPs need to be judged on more than just economic criteria, (Hodge and Greve, 2007, p.92). The potential for corruption poses a serious risk to good and democratic governance. Therefore, it is crucial that the PPP processes should be supported by strong anticorruption infrastructure of lore, regulation and enforcement.

In addition, PPP projects need to be subject to greater scrutiny and should be clearly beneficial to the public, both socially and economically. Socially, means that the ordinary citizens should be able to benefit from the service delivery or goods and services that are provided by the private sector. In other words, the public should not be left in a worse off situation than when the goods and services were provided by the state.

Furthermore, there have been arguments against PPP suggesting that these projects have become more expensive for government. Opponents of PPPs have argued that government is paying far too much for the services that it could have provided at reasonable prices.

However, claims for these allegations have not been proved and situations differ from government department to another and from country to country.

There have been mixed reactions on whether or not private sector does provide the public goods and services in an efficient manner. There are few studies that have compared the relative performance of public sector enterprise and activities with those of privatised enterprises. These studies have showed mixed results, some types of activities appear to be often more efficiently performed by the private sector, other activities have been more efficiently carried out by the public sector, (Hodge and Greve, 2007, p.87). The point to note from the discussion above is that the private sector is not always more efficient than the public sector. It is important that PPPs are justified on a case-by-case basis.

2.6 SECURITY SERVICES IN SOUTH AFRICA

Imprisonment can be defined and interpreted in different ways. One of the most common definition of imprisonment is that it is the ultimate tool of society's reaction against considerably deviating a socially behaviour (Huber, 1988, p.g 5). Imprisonment is regarded as the last resort in any criminal justice system. It is considered as a form of punishment in its own rights and has developed over the last few centuries. As a punitive measure, the use of imprisonment has gained popularity during the twentieth century, (Matshaba, 2007). The use of alternatives to imprisonment, also called non-custodial punishment has become a serious consideration amongst sentenced reformers over the last two decades. Nevertheless, imprisonment is still perceived as the paradigm of punishment. Prisoners are removed from a normal society and are placed in a place that is operated under strict rules. This can have the psychological effects for prisoners, including: Loneliness; emotional relationships; the deprivation autonomy, (Matshaba, 2007).

The steady stream of academic literature on imprisonment and security studies which had emerged in World War II period has fundamentally changed the way in the process of imprisonment is capitalised, academic literature writers include Matthews (1999); Donald Clemer (1940); Irvin Goffman (1970) have all contributed to the academic literature. Imprisonment is perhaps the most drastically sentenced imposed by any state. Every society or country develops justification to impose sanctions on criminals and these justifications have changed over time. There are several philosophies of reduction of crime and criminal activities, namely, determinism, deterrence, incapacitation, retribution and rehabilitation. According to Silverman (2001), all these philosophies are important because they involve offender suffering. According to Terblanche (1999), the purpose of imprisonment is to punish and prevent further crime as well as to rehabilitate prisoners. It is hoped that imprisonment will prevent offenders from further criminal activities. Another motivation for imprisonment is to protect society from hardened criminals. However, imprisonment as a form of punishment has its own advantages and disadvantages.

2.6.1 Advantages of imprisonment

The main advantage of imprisonment is to remove the offender from the community. The result of this detention is the apparent protection of society from that offender for the duration of their incarceration (Matshaba, 2007). The main idea especially for a country like South Africa is to rehabilitate the offender so that when he/she comes out of prison becomes a law-abiding citizen.

2.6.2 Disadvantages of imprisonment

Notwithstanding the advantages of imprisonment as stipulated above, imprisonment has many notable disadvantages. It has serious financial implications for any society and it is a very expensive form of social control.

2.6.3 South African prison system

According to section 2 of the Correctional Services Act 111 of 1998, the purpose of correctional system is to contribute towards maintaining and protecting a just, peaceful and safe society by:

- Enforcing sentences of the court;
- Detaining all prisoners in safe custody whilst ensuring their human dignity; and
- Promoting the social responsibility and the human development of all prisoners and persons subjected to community corrections.

The South African historic elections of 1994 presented the country with a unique opportunity to redress the imbalances of the past through transformation of the criminal justice system to a just and democratic order to which reflects not only the composition of the society but also the aspiration of its people. In apartheid South Africa, both the criminal justice system and the crime problems had been shaped by the legacy of apartheid. An ideal situation would be that the criminal justice system should contribute to the maintenance of just, peaceful and safe society utilizing the appropriate and reasonable sanctions, by exercising only the necessary degree of control and actively encouraging offenders to take advantages of opportunities which will assist them in becoming law-abiding citizens.

The present trend amongst international experts, academics and prison administrators is to follow a systems approach when dealing with the issues that confront the correctional system.

In the early 1960's the incarceration of political detainees and sentenced political prisoners became a significant permanent feature that had a negative impact on the legitimacy of prison system. The detention of political prisoners caused international organisation to turn their attention to those prisons. The government policies were influenced by the doctrine of apartheid and this had major impact on the budgetary allocations which the Department received. Limited funds and the disparity in the provision of services provided to "white" and "non-white" nationals resulted in inadequate rehabilitation programmes being made available (Cilliers, n.d).

The political changes which began in the 1990s had a direct impact on the prison system. In 1991, the Prison Services was separated from the Department of Justice and renamed the Department of Correctional Services, (Cilliers, n.d). The new department was responsible for the rehabilitation of offenders as well as the operating of the prison system. The dawn of the Government of National Unity on 1994, meant that the DCS look forward to a future where it will never again be used to further policies that are in conflict with the standards of the international community. However, the dawn of the past is still prevalent in South African prisons. The Constitution of the Republic South Africa provides that the accountability of the

Department vests with the National Commissioner who is responsible to the Minister of Correctional Services.

Security in the prisons should fully support the internationally defined purpose of incarceration as the creation of a secure, safe and correcting environment to protect society against crime, not simply by removing offenders from society, but also by trying to ensure that as far as possible that the offenders are rehabilitated, (Cilliers, n.d). The effective correctional programmes in the department should ensure that the environment in which the prisoners are kept and in which prison officials operate is safe and secure, the security risk should be managed effectively. It is acknowledged that secure, safe and humane custody are a prerequisite for the rendering of an effective corrections and rehabilitation services in the country. In order to ensure an effective security service that will serve the specific needs of offenders, officials, service providers and the public, the security management policy of department should be based on the understanding that security measures are predetermined and deliberately set at levels of quality and quantity as referred to as Minimum Standards of Security (National Intelligence Agency, 2008). The security policy should aim to set a clear framework for a security system that is based on minimum security standard that acknowledges the need for a holistic, coordinated and synchronized approach to security.

Whilst the prisoners are under the care of the department and whilst they are detained until the time that their sentences come to an end, the department should respect and endorse the legitimate expectations of every prisoner to be detained under conditions consistent with human dignity. The building of the prisoner's self-respect as well as positive participation in rehabilitation and training programmes, the department should also strive to provide adequate buildings and accommodation which complies with the accepted standards (Matshaba, 2007).

2.7 LITERATURE REVIEW

For the purpose of this research, the following research reports and academic journals formed part of the literature review. According to Cooper and Schindler, (2003,), the researcher should discuss how the literature applies to the proposed study, "show weaknesses or faults in the design, discuss how you would avoid similar problems" (Cooper and Schindler, 2003, p.. 102).

2.7.1 Messey, S. (2006) – The experience of service privatization in developing countries:

The case of South Africa's PPP prison.

In this research, the author explores the concept of South African prisons within the context of international and domestic service privatisation. The author has identified key trends and issues which may be relevant to future private sector involvement in prisons and other services.

This research was completed in 2006, where both PPP prisons were less than five year in existence, (the contracts were about four years to be exact). Since then, there has been a lot of developments in these prisons as now these prisons are more than ten years old. So there may be significant difference in findings and conclusions made between now and when the prison were four years in existence.

Another observation to note is that the research methodology that the researcher has chosen is purely qualitatively. There is limited quantitative information in the research. The researcher covered the following areas in her research:

The researcher discussed the growth and spread of privatization specifically, and privatization of services more generally as well as a brief explanation of international private prison developments and the experience of the five countries which have had this degree of private sector involvement.

In addition, the research also covered and discussed the domestic context in which the PPP prisons came about. The researcher also discusses the private sector involvement in service provision as a key component of African National Congress (ANC) economic policy at the time the research was conducted. The researcher also discussed and described some of the important services which have undergone some form of privatization, such as the telecommunication services and major electric supplier in the country, Electricity Supply Commission (ESKOM).

The research also covered and discussed how the PPP prisons came about in South Africa and also how the prisons are working and the experiences of key prison populations, particularly prison workers and inmates.

The main conclusions of the dissertation we the following:

The researcher found that South Africa's only two PPP prisons were tendered in the late 1990s and were they were the first PPP projects in the country in any sector or department. At the time these contracts were concluded, there were no official treasury guidelines in place, so it became a challenge to monitor and evaluate the performance of these contracts.

The researcher also concluded that the PPP prison privatisation contracts were concluded in a rushed and secretive manner in which the discussion to contract with private sector came about. The two main challenges that arose from this secretive manner was firstly, the lack of debate within civil society and other government departments, and secondly, the lack of departmental regulations, more specially National Treasury regulations, to guide the process. Prior to the contracts being signed, there was little debate in government and through public participation and much of the process was completely non-transparent. The researcher has found that many role-players did not know of these prisons until after the contracts were signed.

In addition, the researcher has also concluded that because there was no feasibility study conducted before the contracts were signed, thus affordability was not ensured before the deal was complete.

Furthermore, the researcher has also concluded that it was extremely difficult at the time the research was conducted to determine benefits attributed associated with prison privatisation, the high costs involved and the long term effects of these PPP contracts are the major drawbacks.

2.7.2 Ntsobi, M.P. (2005) - Privatisation of prisons and prison services in South Africa

In this research and study, Mr Ntsobi has explored the options for the provision of efficient prison services in South Africa. The study also drew lessons from the international experience on prison privatisation, specifically in United Kingdom and Australia.

In addition, Mr Ntsobi's research also provided a theoretical debate around privatisation has been captured. Also, the study discussed most debates around the privatisation of prisons and prison services are dominated by one of two positions, either supporting the privatisation because business can run prisons cheaper than government (an economic argument), or rejecting privatisation, because it leads to worse conditions for inmates (a human rights argument).

Furthermore, the research also addressed the 'New Public Management' (NPM) approach to privatisation, and also the Lessons from the international experience. Whilst the focus of the study is on prison privatisation in South Africa, the researcher has reflected on international trends with the purpose of drawing lessons from the international experience. The three main countries involved with prison privatisation; the USA, the UK and Australia have been discussed. The investigation also looked at African scenarios, focussing on Lesotho, Malawi and Botswana, which are countries similar and more relevant to South Africa.

The study has also investigated the nature, extent, costs, and time-scale of prison privatisation in South Africa. The Chapter started off with the history of prison privatisation in South Africa and later provided a comparative analysis between public and private prisons. However, the researcher did not get into details particularly to the comparison of costs of public prisons compared to the costs of private prisons.

The main conclusions of the research were that whilst many developed countries were exploring prison privatisation as an option, a lot of them first embarked in these private prisons as pilot projects, United Kingdom (UK) first took ten years as a pilot project to determine if the private prison would work as intended. The researcher has also concluded that in Austria, prison privatisation is no longer a preferred policy option.

In addition, the researcher has reported that the empirical evidence is not entirely convincing and the anecdotal evidence is not entirely reliable, but the general consensus of those who are genuinely unbiased is that the private prisons are no worse or better than public prison.

Furthermore, the researcher has concluded that it cannot be proven that private prisons are offering services at a cheaper cost, there is sufficient evidence that prison officials in private prisons handle inmates with care compared to officials in public prisons.

The overall conclusion of the study was that privatisation of prisons is a complex phenomenon which requires caution and precision, and as such due care needs to be taken into account before concluding contracts for these private prisons.

The general observation was that prison privatisation may have had a positive impact in reducing overcrowding but it came at a high cost.

The researcher also concluded by assertively arguing that public and private prisons can co-exists. There is a need for renewed partnership to enhance to enhance the co-existence to ensure that the relationship is mutually beneficial. Prison privatisation should not be

persuaded in such a way that it has adverse effect on public service and challenge the legitimacy of the state.

2.7.3 Goyer, K.C. (n.d) – Prison Privatisation in South Africa, Issues, Challenges and Opportunities

In this research, the author has discussed the prison system in South Africa, including the many challenges which are associated with the lack of available resources to meet the increasing demand for the correctional services. The author has also made comparison of imprisonment in the “new” post apartheid and imprisonment. The comparison that the author has drawn and concluded on is that crime is not only affected by political instability in a country, but rather crime should also be considered as an anticipated consequence of development. The Author has also provided crime rate statistics for prison population in South Africa. In his research, the author has uncovered that the prison population has almost doubled from the years 1995 to 2000 and this is largely attributed to the number of criminal cases outstanding. One of the common challenges that the prisons in South Africa have been facing throughout these years, even currently are overcrowding; gangsters; recidivism; escapes as well as public health.

In addition, the author has also discussed prison privatisation in South Africa as well as international comparative studies, with specific reference to the United States, Australia and United Kingdom. In his research, the author has identified that the average prison in South Africa is forced to accommodate up to twice its intended capacity. This overcrowding of prisons has an effect on prison security.

The author further tackles the issue of prison privatisation, in this research paper, it is discussed that the Department of Correctional Services cannot contribute towards the rehabilitation of criminals without the necessary facilities and resources. In light of increasing prison populations and the lack of funds available, governments around the world are turning to private sector involvement in providing correctional services. The author has then concluded that the failure and success of privatisation of any services in a country depends on its ability to anticipate and respond to shifts in public demand and to meet that demand at a price which the public is willing to pay. Whether or not privatisation is successful, there are a number of factors that needs to be looked at, including the following, proprietary, cost, quality, quantity, flexibility, security, liability, accountability, corruption as well as dependence.

2.7.4 Cilliers, C. (n.d) – The South African prison policy

In this research paper, the author has provided historic background information on the South African prison policy during the apartheid regime and after democracy. The author has highlighted that the apartheid system distorted the criminal justice system and people of colour were excluded from the positions of authority in the judicial system, in the police service as well as in the prison services. The author has highlighted that the criminal justice system was influence and was used by the state as an instrument in the fight against the opponents of apartheid. The fight was not against crime and criminal activities as it today, but the fight then was more about political crime and prisons were mostly built for political prisoners.

According to Cilliers, (n.d), the political changes which began in 1990s had direct impact on the prison system in South Africa. The new Department of Correctional Services was now responsible for the supervision of offenders, as well as operating prisons. The DCS is, as in other countries in service of the community and forms an inseparable part of the criminal justice system bearing in mind that the department is striving to ensure a close liaison and cooperation with the criminal justice system and the society on a continuous basis in order to ensure and maintain an effective correctional system and a more, just, humane and safe society, based on the following correctional practices (National Intelligence Centre, 2008).

- **Physical care:** Under the health care practice, the department should respect and endorse the legitimate expectations of every prisoner to be detained under conditions consistent with human dignity. The department should strive to provide accommodation which complies with accepted standards. Under physical care, the author has reported that the department should respect and endorse the prisoner's right to quality health care. According to the author, "at larger prisoners, there are, inter alia, well-equipped pharmacies, theatre facilities where local anesthetics can be administered and provision is even made for the rendering of specialist services within hospital" (Cilliers, n.d, p. 536). The author has also emphasised that in keeping with the primary health care, the department should strive to cater, in cooperation with health authorities, for the different nutritional needs of person entrusted to its care, and to comply with the recommended prescribed daily allowance.
- **Rehabilitation of offenders:** In this section, the author has reported that fundamental to an effective corrections and justice system should be a firm commitment to the belief that offenders are responsible for their own behaviour and behavioural change and have the potential to live as law-abiding citizens. The author has emphasized the need to treat and develop as well as training the offenders by involving them in various professionals determined according to individual needs. Offenders should be informed of various programmes and should be active participants in those decisions.

The conclusion that the researcher has come up with is that there has been a huge shift in the prison policy and the prison system from the apartheid regime to the present prison system today. Today, the department has applied policies on place to ensure that the human dignity of prisoners is maintained whilst under its care. Unlike in the past, where, there was no emphasis on the human dignity and care of prisoners. There has been a shift in the policy regime

2.7.5 Seminar Report (2003) – Prison Privatisation

This was a seminar paper on privatisation of prisons in South Africa and other developing countries. In this report, the authors have identified the need and rationale behind any country to embark on prison privatisation. One of the motivations highlighted by the authors was the management and the way the prisons were run, and another major motivation for the privatisation of prison was the issue with prison overcrowding. The authors have mentioned that at the time the seminar took place and at the time that the seminar report was finalised approximately 179 500 prisoners were housed in 238 facilities that were originally built to accommodate 105 000 prisoners, amounting to 68 per cent rate of prison overcrowding, (Seminar report, 2003, p. 3). At the time of the seminar, the issue of prison privatisation was relatively new in South Africa and there was little information available upon which to base an argument or position for or against the concept of prison privatisation. The paper mentioned that there was a lack of public debate about prison privatisation and the public and civil society groups were not involved and were not given an opportunity to express their

opinions and views about the privatisation of prison services in the country. The authors have mentioned that these private prisons have gone largely unstructured by the local and international human rights organisations that are charged with creating, monitoring and enforcing legal standards, and safeguarding the conditions in prisons.

There have been problems associated with prison privatisation from the very beginning, opponents of these prisons (including Beyens and Snackers (1996), Lundahl (2009), Harding (1992) and Edwards (1996), amongst others) have expressed their disappointments on the way in which these prisons have been run. They have argued that the private party was more concerned about making profits and their turnover rather than the service delivery. The opponents have also argued that these prisons were running at high costs, the costs were higher than originally anticipated, and the issue of high costs has impacted on the rest of the South Africa's correction system. "Thousands of public sector jobs have been frozen due to the money being allocated to the private prisons" (Seminar report, 2003, p. 10).

The government was considering whether it was possible to negotiate with the private companies to reduce the costs of running these contracts, however, the government could pull out of the contracts because these contracts contained penalty clauses that had heavy penalties for the party wishing to cancel.

Overall, the point that the authors were trying to make was that whatever benefits associated with these PPP prisons, they were outweighed by many arguments against them, more especially when it comes to the costs and affordability of these private prisons.

Notwithstanding the arguments made by the authors, it should be noted that the report was written in 2003 and there might have been new developments after the report was finalised.

Leedy and Ormrod have emphasised that "too much literature reviews do nothing more than report what others people have done and said" (Leedy and Ormrod, 2010, p. 78). Lee and Lings have provided crucial steps in their summary of literature review. They have provided that the first step in literature review is **starting**, and the second step is **stopping**, (Lee and Lings, 2008, p. 104). These are the first steps, amongst others that they have provided in their book. So most authors of research related methods books have emphasised the fact that researchers need to know when to stop their literature review.

2.8 SUMMARY

The gap that has been identified in the literature that has been reviewed is that there is no detailed comparisons between public and private prisons; the costs per inmate per date are not clearly compared and the services, including efficiency in the two prisons are not compared and contrasted.

From the discussions in this chapter, it appears that the concept of privatisation has been subjected to a lot of resistance and much criticism. The opponents of privatisation have argued that it is subject to failure, especially from a developing country like South Africa. There has been a huge outcry on the matter in which the process of privatisation has been handled. Chapter two has looked at both the arguments for privatisation as well as the arguments against privatisation. From the discussions and literature reviewed, it appears that, given the state of economic conditions at the time the first democratic government took

office, and the state in which the SOEs were, it was probably the best decision to take at that time.

Chapter two further discussed the theory of Public-Private Partnerships, more especially in South African context. It is noted that PPPs have three basic characteristics that should be fulfilled, which are the affordability, risk transfer as well as the value for money. An important observation that has been made in the case of PPPs as opposed to privatisation is that for PPPs, the asset is not entirely transferred or sold to the private party. Rather, the private party is required to return the asset to the public party at the end of the consortium period. This is one of the unique characteristics with PPP. Advantages and disadvantage of have also been discussed extensively. Just like privatisation, it appears that there are also opponents and proponents of PPP. What we have seen from this chapter is that there are always advantages and disadvantages associated with any procurement method that the government ventures on, what is important is to look at the economic and social circumstances holistically before the government can decide to venture in that procurement process.

3 LEGISLATIVE AND REGULATORY FRAMEWORK

3.1 INTRODUCTION

There are fundamental transformative laws and regulations that regulate the provision of prison services in South Africa. The underpinning legislative arrangement that inform the provision of correctional services, the configuration, functions and the mandate the Department of Correctional Services, include the Constitution of the Republic of South Africa (No. 108 of 1996) (Constitution), the Correctional Services Act (No. 111 of 1998) (CSA), Criminal Procedure Act (No.51 of 1997) (CPA), as well as the White Paper on correctional services. The above mentioned pieces of legislation are the core legislation that govern the provision of prison services.

Over and above the core legislation listed above, there are other legislation that are applicable to all government departments in South Africa, and which focus specifically on the financial affairs and financial management of government funds, these include, the Public Finance Management Act (No. 1 of 1999) (PFMA), Treasury Regulations (TR), this chapter provides more details on the provisions of these acts and regulations in managing the finances of the DCS.

In addition, this chapter also provides legislative and regulatory framework for accounting for PPP projects in South Africa, the legislative framework is the PPP Manual and Treasury Regulation 16.

Because of the importance and the significance role that legislation plays on the provision of prison services, it is very crucial to discuss the legislative and regulatory framework that regulate the provision of prison services as well as the financial framework that governs financial management of the DCS and prisons.

3.2 CONSTITUTIONAL MANDATE

The Constitution is the highest law in the country, and all other legislation that is passed should align with the requirements of the Constitution. Chapter two of the Constitution deals specifically with the Bill of Rights, and is defined as:

“The Bill of Rights is a cornerstone of democracy in South Africa. It enriches the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom. The state must respect, protect, promote and fulfil the rights in the Bill of Rights”.

From the above definition and explanation of the Bill of Rights in the Constitution, it is clear that the state has the right to promote and enforce the Bill of Right. The Bill of Rights applies to all citizens of South Africa, including prisoners. This means that all citizens of the country are protected by the Constitution, and particularly by the Bill of Rights as it applies equally to prisoners and non-prisoners.

Section 12(1) of the Constitution, particularly specifies that everyone has the right to freedom and security. This section of the Constitution can be interpreted into two ways, firstly it means that everyone who has not committed crime “law-abiding citizen” has a right to freedom and security. Meaning that people have a right to be safe and feel safe in the country. On the other hand, the people who have been detained also have a right to security. This

means that prisoners or any other person under the control of the Department of Correctional Services has the right to security as stipulated into the Constitution.

This means that DCS is mandated by the Constitution to ensure the safety of those people under their custody as well as the safety of the prison officials. The prisoners need to be free from all forms of violence from either prison officials or fellow inmates.

This makes the provision of security services the core function of the DCS and one of the key focus areas because the department has a constitutional mandate to ensure safe custody of people under its control. This implies that the department is held accountable for all people under its control. If any person feels unsafe under one of its correctional centres, the department needs to account as it has the constitutional mandate to comply with the requirements of the Constitution.

3.3 LEGISLATIVE MANDATE

Over and above the constitutional mandate that has been discussed in the preceding section, the Department of Correctional Services has also a legislative mandate to ensure that it execute its mandate, one of the key legislative mandates that the department should adhere to is the Correctional Services Act (No.111 of 1998) (CSA). The purpose of this Act is

“to provide a correctional system, the establishment, functioning and control of the Department of Correctional Services, the custody of all prisoners under the conditions of human dignity, the rights and obligations of sentenced prisoners, the rights and obligations of unsentenced prisoners, a system of community corrections, release from prison and placement under correctional supervision, on day parole and parole, a National Council for Correctional Services, a Judicial Inspectorate, independent prison visitors, an internal service evaluation, officials of the department, joint venture prisons, penalties for offences, the repeal and amendment of certain laws, and matters connected therewith”.

From the above brief description of the CSA, it becomes clear that the department has a legislative mandate to comply with this Act. For the purpose of this research, the focus would be mainly on the safe custody of all prisoners, hence, this research will focus specifically on the issue of provision of security services and safety of inmates and all people under the custody of the department.

In terms of section 2 of the CSA, the purpose of the correctional system is to contribute to maintaining and protecting a just, peaceful and safe society. One of the ways in which to do so is by ensuring that all prisoners are detained in a safe and secure custody whilst ensuring their human dignity.

The Correctional Services Act (CSA), specifies that whilst every prisoner is required to accept the authority and to obey the lawful instruction of the Commissioner and correctional services officials at the department, the department on the other hand is required to take steps to ensure the safe custody of every prisoner as well as to maintain security and good order.

From the requirements of the CSA, it is apparent that the DCS has a responsibility to ensure the safety of inmates. Security in its prison facilities is very important for the department. There is a need to take special attention specifically when dealing with security issues. The department should ensure that it invests both its money and non-monetary resources to ensure that safety and security is not compromised in its prisons.

Later in this research, security issues will be scrutinised and looked on, particularly for the two prisons that are selected for this case study research, the Mangaung Correctional Centre and the Kimberly Correctional Centre. The research will further compare and contrast the quality of security services provided in these premises, the cost of providing the security services in these two prisons will be discussed in later chapters.

3.4 WHITE PAPER ON CORRECTIONAL SERVICES, 2005

In February 2005, the then Minister of Correctional Service, Honourable Minister Ngconde Balfour, signed a new white paper on correctional services, which replaced the 1994 white paper on correctional services. The white paper outlines the new strategic direction for the department with specific regards to the rehabilitation at the correctional centres. The “new” white paper summarises the philosophy behind the strategic and operational plan for the new correctional system and also provides a framework on which the department and all its correctional centres should adhere to.

It is imperative from the discussion of the above mentioned legislation that the mandate of the department remains to be that of the provision of safe and secure environment for the inmates and all those who are under their custody. None of the above legislation have exempted the department in any way form executing its mandate of providing security services.

One key feature and an important observation that needs to be taken into consideration because of the nature of this research is chapter twelve of the white paper on correctional services. This chapter deals with the provision of appropriate and cost-effective facilities. Chapter twelve of the white paper on correctional services specify that all future design, procurement and building of correctional facilities in South Africa should be based exclusively on the South African context, in other words, taking into account and be based exclusively on the South Africa realities. Hence, there is a need for decision-makers to take into account societal factors such as levels of overcrowding, offender profile amongst other decisions to be taken into account.

The white paper on correctional services also specifies a policy framework on Public-Private Partnership (PPP) correctional facilities. This policy provides that the Minister of Correctional Services, subject to any law governing the awarding of contracts by the state, with the concurrence of the Minister of Finance and the Minister of Public Work, enter into a contract with any party to design, construct, finance and operate any correctional centre or part of a correctional centre established or to be established. The white paper on correctional services further specify that the contractor or the private party must be bound to contribute to the purpose of the correctional system, including maintaining and protecting a just, peaceful and safe society, Including the detention of offenders in safe custody whilst respecting their human dignity.

So according to the white paper, both public and private prisons have the same mandate, and there is no prison that is exempted from the mandate of safe custody of the prisoners. Therefore, this enforces the importance of the provision of security services in prisons. This research will specifically be focused on the provision of security services in a public and private prison.

3.5 THE PUBLIC FINANCE MANAGEMENT ACT

Because of the nature of this research, that is to compare and to contrast the most effective, efficient and economic method of procuring security services in two correctional centres in South. This research is a case study and it compares two similar prisons, one being a normal prison where prison services are provided for by the DCS and another private prison where the security is the responsibility of the private party, the state pays the private party a monetary payment, it therefore crucial to make reference to the PFMA.

The purpose of the Public Finance Management Act (No. 1 of 1999) is:

“To regulate financial management in the national government and provincial governments; to ensure that all revenue, expenditure, assets and liabilities of those governments are managed efficiently and effectively; to provide for the responsibility of persons entrusted with financial management in those governments ;and to provide for matters connected therewith”.

From the above definition, it is apparent that one of the key objectives of the PFMA is to secure transparency, accountability and sound management of the revenue, expenditure, assets and liabilities of government departments and public entities. Hence it is crucial to look at the PFMA for purpose of this research.

The PFMA is the main piece of legislation in South Africa that regulates financial management of government departments and public entities. Section 38(1)(a)(iii) of the PFMA specifically states that an *“Accounting Officer (AO) of department must ensure that the department has and maintains an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective”.*

In addition to the above specific section of the PFMA, section 38(1)(b) specifies that *“the Accounting Officer of a department is responsible for the effective, efficient, economical and transparent use of the resources of the department”.*

The above two references of the PFMA are very significant for the purpose of this research, it is therefore crucial for the purpose of this research to look specifically to these two sections of the PFMA.

Accounting Officers are required to ensure that the departments they are responsible and accountable for have and maintain an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective. In other words, it is the responsibility of the Accounting Officer to make sure all of the above requirements are taken into account and all the above requirements are met when the department procures its goods and services. Hence it is very important for a department to make sure that the procurement method or process that it has opted for meets the above requirements. For example, in the case of this research, it is required in terms of the PFMA that the Accounting Officer is responsible for the effective, efficient, economical use of resources. The Accounting Officer is accountable in terms of these sections of the PFMA to ensure that these requirements of the PFMA are met. Therefore, it is important for the decision makers in a department to ensure that, before any decision is taken, where procurement of resources is concerned, the option taken for the procuring of resources the requirements of efficient, effective, economic and transparent use of resource is taken into account and should be used as a basis for decision making processes.

The purpose of this research is to determine which of the two procurement methods of the provision of security services in South African prisons ensures the efficient, effective and

economic use of the DCS resources. In line with the requirements of the PFMA, it is crucial that all the decision makers in the DCS comply with the requirements of this legislation.

3.6 REGULATORY FRAMEWORK ON PUBLIC-PRIVATE PARTNERSHIPS IN SOUTH AFRICA

In addition to the requirements and regulations of the PFMA discussed above, all government departments and public entities in South Africa are also required to comply with the requirements of Treasury Regulations. Treasury Regulations also regulations the financial management of the departments' funds and budget, and are issued in terms of the PFMA.

Treasury Regulations (TR) 16 specifically deals with the Public-Private Partnerships, in terms of this regulation, all departments and public entities that have PPP contracts and projects are required to comply with this regulation. TR 16 specifies how the departments should account for the PPP projects, it also stipulates the role of National Treasury in facilitate the PPP projects.

From these regulations, it can be concluded that National Treasury plays a very significant role in ensuring that the departments meets its obligations. Departments are required to ensure that they obtain Treasury Approval first before they can proceed with the PPP procurement. Furthermore, once the PPP project has been signed off National Treasury plays a significant role in monitoring and evaluation of the PPP Project.

3.7 SUMMARY

Chapter three provided legislative and regulatory framework for the provision of security services in South African prisons. This chapter looked at the constitutional mandate as the Constitution is the supreme law of the country, it is very important to base all other legislation and regulations in line with the Constitution. It is from the Constitution where the Department of Correctional Services derives its mandate. This chapter also looked at other legislative framework that is very important for the DCS, the CSA and the White Paper on Correctional Services, which regulates the correctional centres in South Africa.

The importance of the PFMA and TRs can never be overestimated, especially in a country like South Africa, where it faced with a challenge of meeting its service delivery targets with the limited resources. The PFMA is one of the progressive legislation reforms in South Africa. It is applicable to all government departments and public entities and it specifies how the government should manage their resources.

4 RESEARCH METHODOLOGY

4.1 INTRODUCTION

Research methodology refers to the philosophical basis on which research is founded (White, 2002). The nature and approach of research strategy as well as the nature of research questions determines the research methodology. The objectives of this research are to enhance procurement of security services, by examining the most effective, efficient and economic method of procuring security services in South African correctional centres. This chapter of the research provides an overview of the research approach and strategy, the chapter also provides an explanation of the data collection methods, as well as the frequency and choice of data used in the research. Chapter four also contains a section that provides an insight on the sampling methods used and data analysis methods. The chapter further provides information of the research reliability and validity of information provided. The chapter concludes with the research limitations.

4.2 RESEARCH APPROACH AND STRATEGY

This research is a comparative case study that compares two similar prisons in South Africa, the MCC and the KCC with two different procurement methods. According to Robert K. Yin, a case study research can be defined as *“an empirical inquiry about a contemporary phenomenon (e.g., a “case”), set within its real-world context – especially when the boundaries between phenomenon and context are not clearly evident”* (Yin, 2012, p.4). According to Yin, a case study research assumes that examining the context and other complex conditions related to the case(s) being studied are integral to understanding the case(s). Yin argues that the in-depth focus on the case(s), as well as the desire to cover a broader range of contextual and other complex conditions, produce a wide range of topics to be covered by any given case study. The case study research goes beyond the study of isolated variables. As a by-product, and as a final feature in appreciating case study research, the relevant case study data are likely to come from multiple and not singular sources of evidence.

The research approach and strategy that has been used for this research study is mostly qualitative research with limited quantitative research information, in actual fact, the quantitative information will be limited to the computation of Net Present Values (NPVs) and Discounted Cash Flows (DCF) for the projects. For the purposes of this research study, there is no need for the computation of complex statistical computation, and hence as mentioned earlier that this research study is mostly a qualitative research.

According to Leedy and Ormord (2010, pg.35) “When little information exists on a topic, when variables are unknown, when a relevant theory base is inadequate or missing, a qualitative research study can help design what is important”.

The qualitative research study approach gave the researcher an opportunity to understand the problem area and to explore more the problem statement and research questions.

The starting point for this qualitative research study was the research questions itself, qualitative research often start with the general research questions rather than a specific hypothesis, (Leedy and Ormord, 2010).

This led to this research study being inductive and exploring in nature, allowing the conclusions to follow and be drawn from the analysis of data. According Bryman and Bell

(2011, pg. 14), an inductive research approach results in the theory being the output of the research by the process of drawing generalised inferences from observations.

Cooper and Schindler (2003, pg. 37), state “to induce is to draw a conclusion from one or more particular facts or pieces of evidence. The conclusion explains the facts and the facts support the conclusion. Leedy and Ormord (2010, pg. 96) concur that the use of inductive approach allows the researcher to make many specific observations and then draw inferences about the larger and more general phenomena.

Byran and Bell (2011) supports this choice by adding that qualitative research “predominantly emphasises an inductive approach to the relationship between theory and research in which emphasis is placed on the generation of theories.

4.3 DATA COLLECTION, FREQUENCY AND CHOICE OF DATA

The nature of this research study, which is a comparative case study between the Mangaung and Kimberly Correctional Centre, the research design, being a case study provided a variety of sources in which research data was collected. This case study research has benefited from multiple sources of research data.

According to Yin (2012, p.g 10), there are six common sources if evidence in doing a research case studies, which are the following:

1. Direct observation (e.g., human actions or a physical environment)
2. Interviews (e.g., open-ended conversations with key participants)
3. Archival records (e.g., student records)
4. Documents (e.g., newspaper articles, letters, emails and reports)
5. Participant-observation (e.g., being identified as a researcher but also filling a real-life role in the scene being studied)
6. Physical facts (e.g., computer downloads of employees’ work)

From the list provided above by Yin, the following data collection methods have been used for the purposes of this research.

Primary data collection methods:

1. Direct observation

The researcher has had the opportunity to go to the two prisons selected for the case study. According to Yin, direct observation is the most common method in the case study research. Yin explains that such observation can focus on the human actions, physical environments, or real-world events. Yin explains, “if nothing else, the opportunity to make such observation is one of the most distinctive features in doing case studies. As an initial example, the conventional manner of collecting observational data takes the form of using your own five senses, taking field notes, and ultimately creating a narrative based on what you might have seen, heard, or otherwise sensed” (Yin, 2012, p.g. 11).

The researcher was very fortunate to undertake an oversight visit to the two correctional centres and has directly observed the operations and functioning of these two correctional centres. The visit was conducted on 27 and 28 July 2011. The data that the researcher has

collected for the purpose of this research represents the researcher's own deliberate interpretation of what she has been observed during the visit to the correctional centres.

2. Open-ended interviews

Yin refers to this as a second common source of evidence for case study research. This method of data collection is also called "non-structured interview". The research has contacted key managers at the Department of Correctional Services and National Treasury to gain more insights on the research topic and the two prisons selected. Yin argues that the open-ended interviews offer richer and more extensive material than data from.

The researcher has conducted interview with the following people:

- a) Ms Joyce Deu: Project Manager – PPP unit – National Treasury.
- b) Ms Glyn Deale: ASD, Finance – Department of Correctional Services.
- c) Ms Andronica Mabunda: Manager –Department of Correctional Services.
- d) Parliamentary Researcher – Portfolio Committee on Correctional Services – Parliament of the Republic of South Africa.
- e) Parliamentary Researcher – Portfolio on Public Works – Parliament of the Republic of South Africa.
- f) Mr Grant Federics: Parliamentary Liaison Officer – Department of Correctional Services.

The above people were interviewed because they were directly dealing with the information relating to these two correctional centres. Ms Joyce Deu, is the project Manager and she is responsible for monitoring the MCC PPP project and she has got the institutional information about the project.

Ms Glyn Deale is the Assistant Director, Finance at the department, so she is got all the information about the financial information relating to the correctional centres.

Parliamentary Researchers for both the Portfolio Committee on Correctional Services and Portfolio Committee on Public Works have performance information about these correctional centres. The Director-Generals for the respective departments are accountable and they report to Parliament on a daily basis, so these Researchers they have "first hand" information on the issues of these prisons.

The questions that were asked during the interview included the following:

- Cost per inmate per day for MCC;
- Cost per inmate per day for KCC;
- Breakdown of the cost per inmate for each prison (i.e. security, health, catering, rehabilitation);
- Number of escapes per year in each prison;
- Total number of escapes for all prisons in South Africa;
- Challenges faced by each prison;
- Total amount paid by the department for each prison.

B: Secondary data collection methods:

1. Desktop research

In addition to the primary data collection methods, discussed above, which was the direct observation and open-ended interviews, the researcher has also conducted a desktop research. The researcher has also collected secondary data and has consulted a number of documents and archival records to gain more insights on the research, the following documents were amongst documents that were consulted.

The following data sources would be used for my research.

a) Concession contract between the government and the private party

The Concession agreement between the government and the private party provided useful information about what is expected of each party to the contract. The concession agreement is one of the most important information, more especially because it contains key critical information such as the payment mechanism between government and the private party, the monthly fee structure, payment terms, escalation clauses and penalties. This information will be very useful and will be key to the modelling and computation of the NPV calculations and also for comparison purposes, and also to assess the affordability of the PPP projects, going forward.

b) Department of Correctional Services Strategic Plans

Strategic Plan of any government department is a very important document because it outlines the strategic objectives, goals and targets that the Department would have to meet at the end of each financial year. Therefore, as part of planning for the future, each department in South Africa is required to submit a strategic plan and the strategic plan has to be approved by Parliament. The information contained on the strategic plans assisted in determining, the department's objectives, the department's perspective on the PPP projects, whether the Department wants to embark on more PPP projects and also determine if there are other similar projects on the pipeline.

c) Department of Correctional Services Annual Performance Plan (APP)

An APP is an important source of data that has been used for the research purposes. The APP specifies important financial and non-financial information of any particular department, for an example, in the case of the DCS, all information concerning the departmental budgets, including the budget for the PPP projects for the year will be stipulated in the APP. This assisted particularly when it comes to the affordability of the project, for an example by comparing the budget for the PPP project from the DCS's side and the annual cost per the concession agreement. So the APP was a very important source of data for the purposes of this research.

d) Department of Correctional Services Annual Report

The annual report, annual financial statements and the reports of the Auditor-General (AG) will be a very useful tool for the research. All government departments and departmental entities in South Africa are required to be audited by the AG, who is an independent body. The AG conducts annual audit on the affairs of the department and subsequently expresses an opinion on the financial affairs of the department. This makes an annual report of any department to be a useful oversight tool that has been audited and it is “independent” from the department. The annual report consist both financial and non-financial (performance) information. It is an important tool especially when it comes to the comparison of the affordability between the normal prisons and the PPP prisons. Furthermore, when it comes to determining the VfM, both quantitatively and qualitatively, an annual report is going to be used because, an annual report provides both qualitative and quantitative information of the department for any given financial year.

e) Committee reports – Portfolio Committee on Correctional Services

Parliament, through it Parliamentary Committees plays an important role in ensuring oversight responsibilities over executives of government departments. Government Departments are often called to account to Parliament on how they have spent their allocated their public money. Government departments are often represented by the “political head”, who is the Minister responsible for that particular department. It is the Portfolio Committee on Correctional Services that has an oversight role over the department, and the contracts that the departments currently have, for an example if the contract is unfavourable or it becomes very expensive for the department, the department will have to account before the committee. Furthermore, the Portfolio Committee also conducts oversight visits to all the correctional centres across the country, including the two PPP prisons, in Free State and Limpopo province to oversee the state of the prisons and how it can intervene and improve the state, where necessary.

Like any parliamentary committee, after each hearing with the Department and after each oversight conduct, the Portfolio Committee writes a report with the recommendations and resolutions to the department for implementation.

f) Committee reports – Standing Committee on Public Accounts (SCOPA)

SCOPA is a special parliamentary committee and it is regarded as one of the most “senior” committees in Parliament of the Republic of South Africa. SCOPA calls departments to account in Parliament for their use of public funds, amongst others, this “special” parliamentary committee scrutinises the financial statements of the government departments to ensure that there is no misuse of public funds, and also to ensure that the allocated public money is used for the intended purposes. Often, departments that are usually called to appear before this committee are departments who have received “worse” audit opinion from the AG, for an example, disclaimer, adverse and qualified audit opinion. Furthermore, the committee also calls departments with irregular, unauthorised, fruitless and wasteful expenditure to account. The Department of Correctional Services has appeared several times before SCOPA

After each and every hearing, the committee writes reports with recommendations to ensure that those recommendations are implemented by the departments. So these committee reports will be very useful for my thesis because first and foremost, I would

like to know if DCS has had an irregular, unauthorised, fruitless and wasteful expenditure, particularly expenditure relating to the PPP projects.

g) National Treasury's Estimates of National Expenditure (ENE)

After the budget has been delivered by the Minister of Finance each year, the National Treasury issues and publishes Estimates of National Expenditure for each department, this document stipulates specifically the departmental expenditure for the past three years, the current year and the estimated expenditure for the next MTEF period (i.e. the next three years). This will help me with my thesis because it will enable me to have an idea of how much the department is expecting to receive and how much is the budget for the two PPP prison contracts.

h) Monitoring and evaluation reports of the PPP project from National Treasury's PPP unit

National Treasury has a dedicated PPP unit in its office in Pretoria. The PPP unit at National Treasury has got a dedicated staff complement comprises of various skills, including, financial, legal, project management and technical skills. Each PPP project is allocated a dedicated "expert" from the PPP unit, the unit conduct monitoring and evaluation role over all its projects. They conduct quarterly meetings with the role players and produce reports. I could use these reports to formulate a conclusion for my research.

4.4 SAMPLING

Leedy and Ormrod (2010) highlighted that sampling is the process of selecting the particular entities to be researched that ultimately comprise the sample. For the purpose of this research, the researcher has chosen a non-probability sampling, the research will not involve random selection. This research is a purposive sampling research approach with a specific plan in mind, to determine the primary research objectives.

Cooper and Schindler (2003) make distinctive comparisons between a probability and non-probability sampling. With a subjective approach like non-probability sampling, the probability of selecting population elements is unknown. There are a variety of ways to chose persons or cases to achieve to include in the sample. Often we allow the choice of subjects to be made by field workers on the scene. When this occurs, there is greater opportunity for bias to enter the sample selection procedure and to distort the findings of the study" (Cooper and Schindler, 2003, p.g 198).

Cooper and Schindler (2003) further argue that nonprobability sampling procedures may be used because they satisfactorily meet the sampling objectives. While a random sample may give a true cross section of the population, this may not be the objective of the research. The objective of this research is to find out detailed information about decisions and context information specific to the two prisons.

As mentioned in the previous paragraphs, the purpose of this research study is to compare two correctional centres, based on the cost for security services and other services offered in these correctional centres, therefore, that is the objective of the research and that is the main reason why the a purposive nonprobability sampling method has been used.

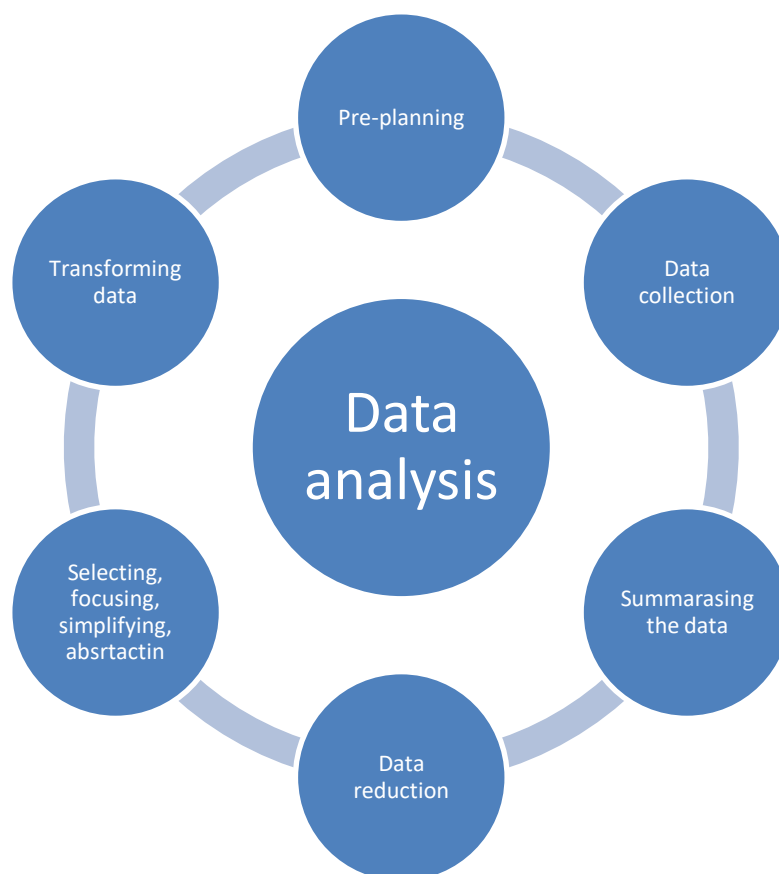
4.5 DATA ANALYSIS METHOD

There are many varied approaches to qualitative analysis research, however, there are few that are actually set down clearly. Lee (2008) has argued that the first step in data analysis occurs even before the collection of data is started, in a preplanning process. Following immediately is the data collection method that should be followed with a brief process of summarising the interaction, which can be a key in more detailed analysis. The first major part of post-collection analysis is concerned with data reduction, followed by the data displays, followed by the drawing of conclusions.

The researcher analysed data using the theoretical framework available for the research area; Cost-Benefit analyses, Present Value analysis; economic, effective and efficient use of resources.

Figure 1 below describes how the data was analysed for this case study research.

Figure 1: Data analysis method



Source: Researcher's own diagram

Figure 1 above shows the data analysis method used and applied for this research study. Data has been analysed in various ways. First and foremost, the researcher analysed the data at pre-planning stage, when the research topic was still vague and unclear, the researcher was fortunate enough to have had access to committee reports for the Portfolio Committee on Correctional Services and the Standing Committee on Public Accounts (SCOPA). The research started collected analysis the data at pre-planning stage.

When the concept of this research was more clear, the researcher then proceeded with more formal data collection processes, the researcher contacted key stakeholders at the Department of Correctional Services and National Treasury, who have knowledge about the correctional centres used in this case study research.

Throughout this research study, the researcher has been exposed to different types of data and some data was not necessarily relevant for this research topic. So the process of data reduction followed, during this process, the researcher eliminated the data that was not relevant for the purpose of this research. This process was further followed by the process of selection, focusing, simplifying as well as abstraction. Subsequent to this process, the researcher started with a process of transforming data, into meaningful information that is used for research.

4.6 RESEARCH RELIABILITY AND VALIDITY

For the purposes of this research study, validity and reliability of data has been ensured by way of reconfirming with participants, to clarify if the researcher had correctly understood the participant's perspective. The researcher encouraged the interviewees to provide information in writing, the information given through interviews was verified to documents and records to ensure validity of information. Furthermore, the researcher remained neutral and unbiased in analysing the research data, throughout the research study. The researcher also Cross referenced information as well as looking at both sides, i.e the arguments for and the arguments against a particular topic. The researcher has also tried to be neutral and not to be biased when analysing data. The researcher has also consultant a wide range of data from different sources.

4.7 RESEARCH LIMITATIONS

According to Bryman and Bell (2007), qualitative research has a number of limitations which include the following: Too subjective; difficult to replicate; problems of generalisation; as well as lack of transparency.

Aaker (2001) argues that nonprobability sampling has the danger of introducing bias as specific categories of the population are chosen. The research methodology for this research also poses research limitations, the sampling method that has been used for this research study is nonprobability sample, meaning that the sample size was very small and limited. As mentioned above, the research study might have been subjective based on the researcher's unsystematic impression. This is probable the most significant limitation of this research study.

Like any other research whether academic or otherwise, there is expected to be some kind of limitations and challenges. For this research, there are certain limitations that that the research is exposed to, especially when it comes to getting access to data sources.

One of the limitations was obtaining permission for sources of information both from the Departments of Correctional Services, Public Works and National Treasury. Some information, like the concession contract and other contracts maybe considered "confidential" and getting accessed to these documents might require permission.

In addition, departments have their seasons where there were extremely busy and getting interviews with officials from the department was a challenge.

Another research limitation was the cooperation and unavailability of key role players from government. For example some of the people who were involved in the initial stages of the project have left, so some “institutional” memory was not available. For example, some key information did not make sense on its own and it was necessary to get clarity in terms of explanations from the people who were involved in the negotiation and early stage of the project. When most people who were involved in the negotiations are not available, this also posed a research limitation.

Furthermore, some research limitation was the unavailability and reliability of information provided, more especially when it comes to project figures, most information needed to be verified and this was time consuming.

4.8 SUMMARY

Chapter four focused specifically on the research methodology. This chapter gave an overview on the research approach and strategy that has been used for this research study. This research study used the qualitative and induced approach. The chapter also provided an overview of the data collection methods that were applied in this research. The researcher used three primary data collection methods, which are the direct observation, non-structured interviews, as well documents and archives. Chapter four further provided an explanation on the sampling that has been used for data collection; the researcher used a purposive nonprobability sampling method. The chapter also gave an overview on the research reliability and validity. The chapter concluded by discussing research limitations.

5 RESEARCH FINDINGS, ANALYSIS AND DISCUSSION

5.1 INTRODUCTION

Chapter five of this research report discusses the research findings. The findings discussed from observations by the researcher, the interviews conducted as well as the findings from various sources that have been used to collect data. This chapter starts by providing a brief overview of the budget allocation of the department, with specific reference to programme 2, which is the incarceration programme.

The chapter further provides an analysis and comparison of the cost per inmate per day for both the Mangaung and the Kimberly Correctional Centres and the discussion and analysis around the efficiency and effectiveness of security services provided in these prisons.

5.2 DEPARTMENT OF CORRECTIONAL SERVICES (DCS)

The Department of Correctional Services is one of thirty eight (38) national departments in South Africa (South African government, 2012), and it is classified under the Justice, Crime Prevention and Security cluster, together with the Department of Defence and Military Veterans (DoD), Department of Justice and Constitutional Development (DJCD) as well as the Department of Police (DoP) (National Treasury, 2012). As at 31 March 2012, DCS had 243 correctional facilities under its care, including the two PPP prisons, i.e. the Mangaung Correctional Centre and the Kutuma Sinthumule Correction Centre. The approved bed capacity for the 243 correctional centres is 118 441 (Department of Correctional Services, 2012 annual report). According to the DCS's 2011/12 annual report, the department has reported its main aim is to contribute to maintaining and protecting a just, peaceful and safe society, by enforcing court -imposed sentences, detaining inmates in safe custody whilst maintaining their human dignity, developing the sense of social responsibility of offenders, and promoting the general developing of all offenders and persons subject to community corrections.

In terms of actual prison population, the department shares various activities and actions of other departments under its cluster, these departments have been mentioned in the preceding paragraph. Various activities, such as arrests, management of investigation processes, case management, case backlogs and sentencing all impact directly on the service delivery of the department. To put it in other words, the department is on the receiving end of the criminal justice system in the country. The performances of the Department of Police and the Department of Justice and Constitutional Development all have a direct effect on the performance of the DCS. For example, the number of arrests made by the DoP, and the number of cases dealt by the DJCD, these are activities that do not fall within the DCS, hence the department has no direct control over these activities. The department is fed by criminal justice system during the arrest and court process as accused persons are incarcerated as remand detainees. Given this issue, the department has limited control over the number of inmates referred to it, and the department does not have control on the number of prison population. However, it can be argued that the DCS, can to a certain extent control the prison population, by, for example motivate for an increase in its budget for capital projects so that more correctional centres can be built.

For the 2011/12 financial year, the department had reported that the inmate population was on average 158 790 (Department of Correctional Services, 2012 annual report). From the

information on total prison capacity and the actual prison population, it can be concluded that as at 31 March 2012, the department's prison population was at 134.08 per cent. Meaning that some of the department's correctional centres were overcrowded, an ideal situation would be that the prison capacity equals to or even less than the prison population. However, the department has reported that it will pursue building more prisons in the near future, a question that needs to be asked would be, will the building of new prison really address the challenge of prison overcrowding in South Africa, while this impacts on the overall performance of the department, this is not the main objective of this research study. This research study will however assist by providing more information on the most economic, efficient and effective procurement methods available for security services, as issue of overcrowding in prison is becoming a concern and can impact on other social problems, including drugs, gangs, health issues, and other non-intended consequences.

5.3 BUDGET ALLOCATION AND BUDGET ANALYSIS

In terms of budget allocation, the DCS received a budget allocation of R17 732 200 000 or R17.732 billion for the 2012/13 financial year, this represents a budget allocation of 1.83 per cent in nominal terms of the total appropriation of R969 365 500 000 or R969.365 billion for 2012/13 financial year (National Treasury, 2012), this budget allocation for the DCS may appear to be very minimal but it is important to note that there are thirty eight departments in South Africa that need to share the total appropriation, the department that got the highest share of the total appropriation is the Department of Social Development (DSD), which received R112 216 800 000 or R112.216 billion, representing 11.58 per cent of the total appropriation. So the percentage allocation between different government departments is very small and as such, the departments need to take great care in spending the budget allocated.

Before we can be able to determine the most effective, efficient and economic procurement method for procuring prison activities, it is important to look in detail at the latest budget allocation and budget information from the department. The table below will provide more details on the budget allocation within the department as follows.

Table 3: Budget allocation for the Department of Correctional Services

Programme R' million	Adjusted estimates 2011/12	Expenditure estimates 2012/13	changes in expenditure estimates	Percentage increase (nominal terms) (%)
Administration	4 586.9	4 924.0	337.1	7.34
Incarceration	8 920.0	9 457.2	537.2	6.02
Rehabilitation	947.6	972.1	24.5	2.59
Care	1 525.2	1 630.5	105.3	6.90
Social	707.2	748.4	41.2	10.92

Reintegration				
Total	16 686.2	17 732.2	1 045.3	6.26

Source: National Treasury (2012)

From the table 3 above, the interpretation of the budget allocated to different programmes within the department, is as follows: the department received a budget allocation of R16.686 billion for the 2011/12 financial year, the budget allocation was subsequently increased to R17.732 billion for 2012/13 financial year. This increase in the budget allocation represents an increase of R1.045 billion, representing a total percentage increase of 6.26 per cent in nominal terms.

Of particular interest is programme 2: Incarceration, this programme is of particular importance, especially for the purpose of this research. This programme has received budget allocation of R8.920 billion in 2011/12 financial year, the budget was subsequently increased by 537.2 million to R9.457 billion in 2012/13, representing a percentage increase of 6.02 per cent in nominal terms. It is important to indicate that this programme received the most budget allocation of the department. It received 53.33 per cent of the total budget allocation for 2012/13 of the department. This means that this programme alone received more than 50 per cent of the budget allocation of the department. The other four programmes of the department have been allocated the remaining 46.67 per cent. This should indicate the significance of this programme of the department. Hence this research will look closer at this programme.

5.4 INCARCERATION

The incarceration programme is the biggest programme of the department. The purpose of programme 2 is to provide safe and secure conditions for all persons incarcerated, consistent with human dignity and thereby provide security for personnel and the public.

According to the department's annual report (Department of Correctional Services, 2012), the strategic objectives of the programme is to prevent persons incarcerated from participating in criminal activities and escaping by providing an environment that ensures the safety of all persons entrusted to the department's care as well as the safety of the public.

Table4 below reflects budget expenditure for the Incarceration programme, and the allocation to various subprogrammes of the incarceration programme.

Table 4: Expenditure estimates – Programme 2: Incarceration

Subprogramme R' million	Revised estimates 2011/12	Expendit ure estimates 2012/13	changes in expenditure estimates	Percentage change (nominal terms) (%)
Security operations	4 889.1	5 548.2	659.1	13.48

Facilities	1 996.8	1 860.3	(136.5)	-6.84
Remand detention	628.7	618.4	(10.3)	-1.64
Offender management	1 405.4	1 430.4	25	1.78
Total	8 920	9 457.2	537.3	6.02

Source: Researcher's own analysis

Table 4 above looks specifically on the incarceration programme, this programme consists of four subprogrammes, which are: Security and operations; Facilities; Remand detention; as well as the Offender management. Security operations is the biggest subprogramme in terms of budget allocation, this subprogramme received a budget allocation of R4.889 billion in 2011/12 which was subsequently increased to R5.548 billion in 2012/13 financial year, representing an increase in the budget allocation by R659.1 million or an increase of 13.48 per cent in nominal terms. From table 4 above, it can be seen that Security operations is the only subprogramme that received the most increase in the budget allocation as it has received an increase of 13.48 per cent, followed by the Offender management subprogramme that has received an increase in the budget allocation of just 1.78 per cent in nominal terms. The budget allocation for the other two subprogrammes has been decrease. From the analysis in table 4, we can analyse the importance of the Security and operations subprogramme.

From here the focus will be more specific on the Security operations subprogramme.

5.5 AUDIT OUTCOMES OF THE DEPARTMENT OF CORRECTIONAL SERVICES

It is very crucial to give background information on the audit outcomes the Auditor-General of South Africa has reported on the Department of Correctional Service. At the end of each financial year, departments and public entities are required to submit their financial statements to the Office of the Auditor-General in South Africa for an annual audit. The Auditor-General assess the stewardship of public funds, performance of government policies and compliance with laws and regulations in an objective manner, the scope of the annual audit performed by the AG is prescribed in the Public Audit Act, No. 25 of 2004. The annual audit that is conducted by the AG provides an assurance that the financial statements are free from misstatement; the reported information is useful and reliable to the users of the financial statements; the Auditor-General also reports on material non-compliance with key laws and regulations as well as identifying the key internal control deficiencies that should be addressed.

There are five audit opinions that the Auditor-General can express opinion on, and table 5 below provides details for such audit opinions:

Table 5: Five types of audit opinions

AUDIT OPINION	EXPLANATION
Adverse opinion	This is a type of audit opinion which states

	that the financial statements do not fairly present the financial position, results of operations, and changes in financial position, in conformity with generally accepted accounting principles.
Disclaimer	This is a special type of audit opinion that should be issued when the auditor is unable to obtain sufficient appropriate audit evidence on which to base the audit opinion.
Qualified	This means that the auditor has taken exception to certain current-period accounting applications or is unable to establish the potential outcome of a material uncertainty.
Financially unqualified with findings	This is an audit opinion that is issued where there are no material misstatement in the financial statements, in most cases, there is usually material non-compliance with applicable laws and regulations
Unqualified with no findings (clean audit opinion)	The financial statements appear to be presented fairly and the department or the public entity has complied with all applicable laws and regulation.

Source: Researcher's own explanation

Given the explanation of different types of audit outcome as illustrated in table 5 above, it is crucial that we now we look at the audit opinions that the Department of Correctional Services received over the past five financial years. Table 7 below illustrates the audit outcomes and the areas of qualification from the 2007/08 financial year to the 2011/12 financial year.

Table 6: Five year review of audit outcomes - Department of Correctional Services

FINANCIAL YEAR	AUDIT OUTCOME
2007/08	Qualified
2008/09	Qualified

2009/10	Qualified
2010/11	Qualified
2011/12	Qualified

Source: Auditor-General South Africa

The department has received a qualified audit opinion from the Auditor-General for the five consecutive years. One of the key areas of qualification that were identified by the AG is in the area of immovable tangible assets, including the PPP prison facilities. This area remains the main area of qualification and a closer scrutiny will be required. The research will provide more information on this qualification area and a closer look at the PPP prisons.

5.6 MANGAUNG CORRECTIONAL CENTRE (MCC)

The Mangaung Correctional Centre is situated in Bloemfontein, in the Free State province of the Republic of South Africa. It is a maximum security prison that has a capacity to house 2 928 sentenced prisoners. The Mangaung Correctional Centre is a private prison and it is managed under a Public-Private Partnership between the South African Government, represented by the Department of Correctional Services and the private party which consist of a consortium of companies under the Ikhwezi Consortium, including the G4S Company. The concession is a period of 25 years, and the contract is managed in terms of the defined correctional outcomes, (Venter, n.d).

Just to give a background history on MCC, in March 1999, five years into the democratic South Africa, the then Minister of Correctional Services announced that given the problems of overcrowding with South African prisons and the issue of inmate population becoming a problem, there was a need to consider venturing into private prisons to address this issue. Subsequent to that, it was therefore announced that the Ikhwezi Consortium was awarded a contract to finance, construct and operate the 2 928 bed maximum security centre. Further negotiations followed and the contract was signed with the DCS on the 24 March 2000, construction work commenced immediately after the signing of contract on 1 April 2000 and the construction was completed and final inspection of the centre was ready by June 2001. The Centre started operation from 01 July 2001.

5.7 KIMBERLY CORRECTIONAL CENTRE

The Kimberly Correctional Centre is situated in Kimberly, in the Northern Cape province of the Republic of South Africa. This correctional centre is called as “the new generation” correctional centre because of its “state-of- the- art” design and equipment, that is similar to the one used for the two PPP prisons in South Africa. The Kimberly Correctional Centre has been designed, built and is operated by the DCS, it is not a private prison, although the building specifications and the equipment used is similar to the two PPP prisons. This centre has maximum capacity of 2 589 prisoners (Department of Public Works, 2010).

The background history of this prison is that, the initial tender for the design and construction of this prison was issued on 27 September 2004, with an estimated contract price of R281.5 million. The tender was re-advertised many times before it was finally awarded on the 14 of November 2006 to Grinaker /Keren Kula Joint Venture, and the final tender amount was R662.3 million. The final construction cost was R824 million (Department of Public Works,

2010). The correctional centre started operating in February 2010, and there were 1 500 prisoners accommodated. The price escalation for this project in nominal terms is R542.5 or 192.71 per cent. The actual construction costs for this prison have more than doubled over the duration of the construction. The main reasons for the price escalations were due to changes in the contract specifications.

5.8 COSTS PER INMATE PER DAY

In South Africa, each prison is charged a cost per inmate per day. The daily rates of inmates differ from prison to prison. There are a lot of considerations taken into account for the computation of the cost per inmate per day. Some of the considerations taken into account include the type of prison, whether the prison is a maximum or medium security prison, the classification of prison, e.g public or private prison, as well as the services offered in the prison.

Generally, the cost per inmate per day comprises of the various components. According to the Department of Correctional Services official, Ms Andronica Mabunda, the most common components incorporated in the cost per prisoner per day include the following:

- Security component;
- Nutritional Services component;
- Health component; and
- Rehabilitation.

5.9 COST PER INMATE PER DAY: MANGAUNG CORRECTIONAL CENTRE

Table 7 below stipulates the cost per inmate per day for the MCC, the cost per inmate is broken down into the four main components listed above.

Table 7: Cost per inmate per day as at 31 March 2012: MCC

NUMBER OF INMATES		2 928
SECURITY:	R'	R 100.13
NUTRITIONAL SERVICES:	R'	R 19.92
HEALTH :	R'	R 33.24
REHABILITATION:	R'	R 16.88
TOTAL	R'	R170.17

Source: Office of the National Commissioner; Department of Correctional Services (2013)

According to the PPP contract, this is the cost per inmate that the DCS is supposed to pay to the private party pay for running the PPP prison, for financial year ending 31 March 2012, In addition to this fee stipulated above, there is also a fixed cost per component that the department should pay, and this fixed/capital cost component is currently R83.50 per inmate

per day, (SCOPA report, 2011). If the fixed or capital cost component is added to the cost stipulated, the department should be paying an amount of R253.67 per prisoner per day.

Based on the information provided above, the annual payment that the department should pay to the private party for 2011/12 financial year should have been:

$R253 \times 365 \text{ days per year} \times 2\,928 \text{ prisoners} = \mathbf{R271\,102\,202.4}$.

In other words, all things being equal, the department should pay this amount to the private party for operating the private prison. The research findings were that, there have always been additional costs added and the department has always paid an amount over and above what is stipulated in the contract.

However, according to the information provided by the National Commissioner of the department, the actual amount that has been paid for the 2011/12 financial year was the following:

Indexed component (operational fee):	R282 982 000
Fixed fee (construction costs)	<u>R102 010 000</u>
Total	<u>R383 082 000</u>

This is the final amount that has been paid by the department to the private party.

According to the PPP unit at National Treasury, which is responsible for the monitoring and evaluation of all the PPP projects in the country, the department has always paid an amount that is more than the amount it is supposed to pay. The reason for the additional amount is due to clauses in the contract that were not clearly discussed prior to the signing off.

Due to fluctuations in the CPI index, the cost per inmate per day has increased, and according to Ms Deale Glyn, who is the Assistant Director- Finance and Administration at the Department of Correctional Service, the new total cost per inmate per day, with effect from 01 October 2012 will be as follows:

Table 8: Revised cost per inmate per day from 01 October 2012: MCC

NUMBER OF INMATES	2 928
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SECURITY:	R'	R 106.59
NUTRITIONAL SERVICES:	R'	R 21.20
HEALTH :	R'	R 35.39
REHABILITATION:	R'	R 17.96
AUXILIARY SERVICES		R 73.99

TOTAL	R'	R255.13
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Source: National Treasury (2013)

5.10 COST PER INMATE PER DAY: KIMBERLY CORRECTIONAL CENTRE

Table 9 below shows the cost per inmate per day for KCC.

Table 9: Cost per inmate per day: KCC

NUMBER OF INMATES		2 589
SECURITY:	R'	R 39.03
NUTRITIONAL SERVICES:	R'	R 13.34
HEALTH :	R'	R 33.24
REHABILITATION:	R'	R 13.34
TOTAL	R'	R65.84

Source: Office of the National Commissioner; Department of Correctional Services (2013)

For the financial year ended 31 March 2012, the operating costs of operating this prison per annum is:

$$R65.84 \times 365 \text{ days} \times 2\,589 \text{ prisoners} = \mathbf{R62\,217\,812.4}$$

5.11 DISCUSSION ON THE COST PER INMATE PER DAY

The purpose of this research study is to look specifically at the security services, as a core service of the department, so the focus will be on comparing and contrasting the costs for security services for each correctional centre.

From table 8 and table 9 above, the following analysis is observed, in terms of the security cost:

$$\mathbf{MCC:} \quad R106.59 \times 365 \text{ days} \times 2\,928 \text{ prisoners} = \quad R113\,914\,864.8$$

$$\mathbf{KCC:} \quad R39.03 \times 365 \text{ days} \times 2\,598 \text{ prisoners} = \quad R37\,010\,978.1$$

The latest cost for security services for MCC has been used because this is the latest cost of security for MCC, which was effective from 01 October 2012.

The cost for security services at Mangaung Correction Centre per inmate per day is R106.59 (NB: indexed costs as at 01 October 2012), and the security cost per inmate at the Kimberly Correctional Centre is R39.03.

It costs government R113 914 864.8 (R113.914 million) a year for security services at Mangaung Correctional Centre and R37 010 978.1 at Kimberly Correctional Centre. This means that the department is paying more than three times for security in MCC compared to KCC.

At face value, this can be interpreted as, government is paying R67.56 per prisoner per day more for security at MCC. In other words, the department is paying 173.09 per cent more for security services in MCC. The cost of security for MCC is more than half of the cost of security for KCC. An analysis of the security cost for these two prisoner shows that MCC costs 2.73 times more than KCC.

From the above analysis, it appears that the security costs for MCC is far more than the security costs for KCC, the PFMA and the Constitution specifies that the departments should procure their goods and services using the procurement method that is economical, efficient and effective.

The issue of expenditure that is being spent by the department on PPP prisons comes a long way. In actual fact, the Department of Correctional Services has appeared before the Standing Committee on Public Accounts and the Portfolio Committee on Correctional Service, one of the key issues that were discussed during these hearings is the expenditure incurred by the department on the two PPP prisons. The Members of Parliament have raised issues and concern on these two private prisons. During the last audited financial year, which 2011/12, the department has spent an amount of R819 666 000 or (R819.7 million) (Department of Correctional Services). When compared with previous financial year, where the department spent an amount of R774 253 00 or (R774.3 million), this represents an average percentage increase of 5.9 per cent in real nominal terms. The issue of high escalation costs has become the main argument against these two PPP prisons.

The issue of costs escalation is an important aspect of any project and inflation needs to be taken into account when analysis projects. Inflation is defined as the rise in the general level of prices of goods and services in an economy over a period of time, (McMahon, 2010). It is important to take into account the issue of inflation when valuating any project. In economics, nominal terms refers to an economic terms expressed in fixed nominal money terms in a given period and real terms adjusts nominal terms to remove effects of general price level over time. McMahon (2010) argues that changes in the nominal terms of some commodity bundle over time can happen because of a change in the quantities in the bundle or their associated prices.

In the case of the Mangaung Correctional Centre, there has been no change in both the quantity and quality of services provided. In terms of quantity, which is the number of offenders incarcerated, the contract is specific, in that a maximum of 2 928 prisoners are incarcerated, and the quality of services is specified on the concession agreement, so there has not been any change in both the quality and quantity of services provided.

To determine the nominal and real increase for MCC, we need to determine the base year, in this case, the base that has been chosen is 2002, and the prices for 2002 will be compared with the prices for 2012. The indexed component cost per prisoner per year in 2002 was R88.50 (Technical Review, 2002). This is the base year and the base cost that will be used. And the quantity is constant at 2 928 prisoners.

2002: Nominal terms:	$R88.50 \times 2\,928 \text{ prisoners} = 259\,128$
2002: Real terms:	$R88.50 \times 2\,928 \text{ prisoners} = 259\,128$ (Real output)
2012: Nominal terms:	$R255.13 \times 2\,928 \text{ prisoners} = 747\,020$
2012: Real terms:	$R88.50 \times 2\,928 \text{ prisoners} = 259\,128$ (Real output)

The figures above reflect that for 2002, which is the base year, the nominal terms is equal to the real terms.

However, for 2012, the real terms equals the real terms for 2012 because we have taken the inflation into account. However, the nominal terms for 2012 is different from the real terms,

which is R747 020, which is 2.9 times more than the real rate. Because we have already determined that there has been no increase in the quality and quantity of services, therefore this increase of 2.9 times cannot be attributed to increase in quality or quantity. This increase is mainly increase in price adjustments. This represents an increase of 188.28 per cent.

To determine whether the price has increased more than the inflation rate, table 10 below provides historic average inflation rates from 2002 to 2012.

Table 10: Historic inflation rates

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
%	%	%	%	%	%	%	%	%	%	%
9.47	5.84	-0.68	2.06	3.24	6.17	10.04	7.26	4.10	5.01	5.75

Source: Worlwide inflation data

The average inflation rate from 2002 to 2012 is 5.3 per cent.

This means that the increase in the cost per inmate for Mangaung Correctional Centre of 188.28 per cent is way above the average inflation rate for the period under review of 5.3 per cent.

Honourable Bloem, who was the Chairperson of the Portfolio Committee on Correctional Services in third parliament (2008), once mentioned that the two PPP prisons in South Africa were becoming more and more expensive, “the two cost the government R300 million each per year, paid to the contractors to run and maintain. This is almost equal to the cost of building new 3 000 bed Kimberly Prison” (PMG, 2008). An issue of concern, especially for a developing country like South Africa is that the extra money that is used to provide resources in Mangaung Correctional Centre could be used to fund other social challenges, such as education, health care that are currently facing the country, or even building more public schools. There is an opportunity cost for the extra money that is spent in MCC.

During the research, it was discovered that the feasibility study for the construction and operation of the Mangaung Correctional Centre was not done. That is why it was difficult to determine and project the actual costs for the project. According to the technical review of the Public-Private Partnership prisons contract, dated 08 November 2002, the PPP prison projects in South Africa were planned and procured prior to the establishment of the Treasury Regulations 16, which is Treasury Regulations for PPPs (Technical Review, 2002). Treasury Regulations were first published in May 2000, and by that time the Treasury Regulations were finalised, construction on the site for these prisons had already completed. This means that the current legislative framework that requires a comprehensive feasibility study to be conducted was not in place, and there was no feasibility study conducted.

An observation has been made throughout the research study, that because these two PPP prisons in South Africa are similar in nature and because the department signed both these prisons around the same time, when they are called to account to Parliament, they are called at the same time and when the media and other organisations reports on these projects, it reports about them at the same time. This was also observed when scrutinising the annual reports of the department. When the department reports about the amount it spent on these PPP prisons, it reflects an annual amount that has been spent for both prisons. In other words,

when the department is reporting on the actual spending, it does not differentiate between the two PPP prisons. The department gives a combined amount for the two PPP prisons. For the purpose of this section, the research will provide an analysis and an overview of how much has been spent by the department for the two PPP prisons, since inception. The table below will illustrate this.

Table 11: Total expenditure on PPP prisons

2001/ 02	2002/ 03	2003/ 04	2004/ 05	2005/ 06	2006/ 07	2007/ 08	2008/ 09	2009/ 10	2010/ 11	2011/ 12
R'000	R'000	R'000	R'000	R'000	R'000	R'000	R'000	R'000	R'000	R'000
R105 m	R411 m	R491 m	R508 m	R538 m	R272 m	R615 m	R674 m	R729 m	R774 m	819

Source: Researcher's own analysis from annual reports

From the table above, the expenditure incurred by the department has increased from R105 million in 2001/02 to R819 million in the last audited financial year. If we take one full financial year, where the prison have been in operation for the full year, which is 2002/03 is R411 million, the expenditure has increased by R408 million, or 99.3 per cent in increase in nominal terms. This means that expenditure for procurement of prisons through PPP has more than doubled over ten years.

5.12 ANALYSIS OF 2011/12 EXPENDITURE INCURRED ON PPP PRISONS

As discussed in the preceding paragraph, the department has paid R819 million for the two PPP prison, and from the analysis in table 8, the security cost for operating MCC for 2011/12 was R113.9 million, which represents 2.3 per cent of the total of R 4.9 billion of the security operations subprogramme of the incarceration programme for the department.

However, before we can make conclusion on this, we need to look at the quality, efficiency and effectiveness of security services provided at these two correctional centres.

5.13 MANGAUNG CORRECTIONAL CENTRE – PERFORMANCE

In terms of performance information for MCC, the research study has revealed the following information which is reflected in table 12 below.

Table 12: MCC 2011/12 PERFORMANCE

PERFORMANCE AREA	2011/12 PERFORMANCE
Escapes	0
Assaults	41
Unnatural Deaths	0

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Source: Department of Correctional Services, 2012

From table 12 above, an analysis of the performance information for the Mangaung Correctional Centre reveals how the centre has performed during 2011/12 financial year. Since MCC started operating, there has only been one incident of escape in 2003, when two prisoners made a daring escape from the correctional centre, (Mathabathe, 2009). Since then, there has never been any escape from MCC. The success in MCC for keeping prisoners incarcerated and for minimising the risk of escape is attributive to the contractual clauses. Contractual obligations stipulate incentives for the private party to maintain high standard of security, there are penalty clauses (Mathabathe, 2009). The penalty clause for any escape is R300 000 per prisoner, per escape incident (Financial analysis report, 2002).

Given the above mentioned penalties, the private party is obliged to ensure that high standard of security is maintained.

The private prison accommodates the exact number of prisons that it is meant to accommodate, this means that the exact number of prisoners accommodated in MCC is 2 928 prisoners.

In terms of the specifications from DCS, MCC was specified as “state-of-the-art facility” which is aimed to be the flagship for future prison developments. The other key specification from the department was that this prison should have the highest level of security with significant penalties for escape, (Technical review report, 2002). The other operations specifications include high levels of prisoner activities, which covers work, education, sports and recreation and should total 40 hours per week.

When compared with the national performances for the same period, the table 10 below stipulates performance at national level.

Table 13: OVERALL DEPARTMENT’S PERFORMANCE FOR 2011/12

PERFORMANCE AREA	2011/12 PERFORMANCE
Escapes	41
Assaults	5 284
Unnatural Deaths	46

Source: Department of Correctional Services, 2012

In terms of escapes and unnatural deaths, MCC has performed fairly well as it has not reported any escapes and unnatural deaths for the financial year under review. However, in case of assaults, MCC reported 41 escapes and in percentage terms, this represents, this represents 0.78 per cent of the total assaults at national level, which is fairly low compared with assaults at other correctional centres.

5.14 STATE OF SECURITY – KIMBERLY CORRECTIONAL CENTRE – ESCAPES

The Kimberly Correctional Centre has been in operation for little less than three years but has already had numerous incidents of security concerns, this includes the loss of a master key of the centre in August 2010, just few months after the correctional centre has been opened,

(PMG, 2011). The lost of master key for the correctional centre poses a security risk for the correctional centre and may imply a lack of security controls within the centre. In addition to the lost of master key, the KCC also experienced a riot where six prison warders were held hostage and a section of the building was set alight by inmates claiming their living conditions are intolerable, (PMG, 2010). However, there have been no escape recorded at Kimberly Correctional Centre up to this far. It is a matter of concern that the centre has experienced major challenges, like the loss of master key and massive riots with just six months of operation.

5.15 DISCUSSION ON PERSONNEL USED IN KCC AND MCC

In terms of comparison of number of personnel used in these two correctional centres, the research findings are discussed below. In Kimberly Correctional Centre, the staff complement comprises of 12 management staff, 424 security staff and 15 specialists staff, for 2011/12 financial year, which is the last financial year audited. The vacancy rate at Kimberly Correctional Centre was reported at 27 per cent. This means that the total staff complement of 451 employees only represent 73 per cent of the potential staff complement within the correctional centre. If the staff complement was at full capacity, a total of 617 employees would be employed.

On the other hand, in terms of the concession agreement between government and the concessionaire, total staff complement at Mangaung Correctional Centre should comprise of 489 staff (Technical Review Report, 2002). There is no evidence suggesting that the centre is currently under or over staffed. And during the oversight visit by the researcher, there were visible personnel in the correctional centre and there was no indication that the centre is understaffed. In addition, during the research, the researcher did not come across with any documents indicating staff shortages at this.

5.16 RATIO OF PRISON OFFICIAL TO PRISONER

In terms of ratio of prison official to prisoner, Mangaung Correction Centre accommodates 2 928 prisoners and has staff complement of 489 staff. The ratio of prison official to prisoner is 1:6. When compared with Kimberly Correctional Centre, the centre accommodates 2 589 prisoners and has the staff complement of 424, so the ratio of prison official to prisoner is 1:6. 1. The ratio of prison official to prisoner between these two centres is very similar.

5.17 PRESENT VALUE FOR MANGAUNG CORRECTIONAL CENTRE

The concession agreement between South African government and the private party in respect of Mangaung Correctional Centre, PPP prison. Government is required to pay a fixed fee of R83.50 per prisoner per day for the first fifteen years of the concession agreement. In order to compute the present value of the total fixed fee that the department is paying for the operation and maintenance of MCC, it is crucial that we compute the nominal amount paid.

Nominal fixed fee: $R83.50 \times 2\,928 \text{ prisoners} \times 365 \text{ days} \times 15 \text{ years} = \mathbf{R1\,338\,571\,800}$

The department would have paid an amount of **R1 338 571 800** for the fixed fee component. The official statistics from STATS SA reveal the average CPI from the conception of the projects is reflected in table 14 below.

Table 14: Historic CPI index

2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
%	%	%	%	%	%	%	%	%	%	%	%
5.7	9.2	5.8	1.4	3.4	4.7	7.1	11.5	7.2	4.3	5.0	5.6

Source: StatsSA, 2013

Based on the above information and in order to compute an average CPI rate that will be used throughout the computation, an average CPI rate that can be used is 5.9 per cent and this is the rate that will be used.

Based on the CPI for the past 12 years, the average indexed cost component per inmate per day is: $R88.50 + (R88.50 \times 5.9\%) = R93.72$.

When the contract was signed, the indexed cost component was R88.50 and according to the concession agreement, the indexed cost component increases with the CPI rate, and on average, the cost component

The computation of the indexed cost component portion is computed as follow:

Indexed cost component:

$R88.50 \times (1 + 5.9\%) \times 2\,928 \text{ prisoners} \times 365 \text{ days} \times 25 \text{ years} = \mathbf{R2\,504\,248\,082.25}$.

The total amount paid for this PPP prison as per the concession agreement at the end of the contract should:

Nominal fixed fee:	R1 338 571 800
Indexed cost:	<u>R2 504 248 082.25</u>
Total:	<u>R3 842 819 882.25</u>

The weighted average cost of the project 18.27 per cent 9 (Financial analysis report, 2002). The present value of the total amount that the department is computed as follows:

FV:	R3 842 819 882.25
i:	18.27 %
n:	25 years
PV:	57 914 206

5.19 COMPUTATION OF PRESENT VALUE - KIMBERLY CORRECTIONAL CENTRE

The final cost that the department paid for the construction for Kimberly Correctional Centre was R824.1 million (Department of Public Works, 2010). As illustrated in the previous sections, the department is currently incurring operation and maintenance costs amounting to R65.84 per inmate per day. For the sake of comparisons between Mangaung Correctional Centre and Kimberly Correctional Centre, this section will use the same information as the information used for MCC.

Operation and maintenance costs: $R65.84 \times (1 + 5.9\%) \times 2\,589 \text{ inmates} \times 365 \text{ days} \times 25 \text{ years} = R65\,888\,663.33$

The total cost for Kimberly Correctional Centre is:

Construction costs:	R824 100 000.00
Operations and maintenance:	<u>R65 888 663.33</u>
Total costs	<u>R889 988 663.33</u>

The Computation of the present value for the construction and operations and maintenance costs for Kimberly Correction Centre is as follow:

FV:	R889 988 663.33
i:	18.27 %
n:	25 years
PV:	13 412 803

5.19 DISCUSSION ON THE RESEARCH FINDINGS

The analysis of the research findings and comparison of the costs and performance of the two correctional centres has revealed that in terms of costs, the Mangaung Correctional Centre costs more to run and operate than the Kimberly Correctional Centre. An analysis of costs, as discussed in the preceding paragraphs has showed that in terms of the cost per inmate per day, the future terms and the present terms, MCC costs far more than KCC, so in terms of economic use of resources, KCC might be more efficient because, it costs less than MCC. In other words, it uses fewer resources than MCC.

Another key research finding was that in terms of the ratio of prison official per prison, the research findings was that the ratio for MCC is 1:6 and for KCC is 1:6.1, this ratio is very similar for the two correctional centres.

Finally, in terms of performance, the research findings were that there were no escapes in MCC and there were no riots, meaning that the security control at MCC is better compared to KCC where there were riots and loss of master keys and burning of prison properties within two years of operation, the research findings indicated that there is a risk of security threat at KCC.

5.20 SUMMARY

Chapter five of this research study looked at research findings, analysis as well as discussion of the findings. The chapter provided an overview of the Department of Correctional Service, with specific reference to the department's budget allocation and budget analysis, of particular significance was programme 2: Incarceration, because of the objectives of this comparative study research, which is to analyse the security services of the two correctional centres. The chapter also provided an overview of the audit outcomes of the department for the past five years to determine the root causes for the continued audit outcomes constantly received by the department, the research findings were that the main areas of qualification for the department were on capital assets, including accounting for PPP prisons. Chapter five also provided an analysis of the cost per inmate per day for both MCC and KCC. The research study found out that MCC costs more than double the cost of KCC and the escalation costs of MCC are far more than the average inflation rates for the past eleven years. Consequently, the present terms of MCC is far more than the present terms of KCC. Furthermore, this chapter also analysed the ratio of prison official to prisoner for both centres, the study found this ratio to be similar. This chapter concluded by providing performance of both centre, in terms of

performance, there have been no escapes or major riots in MCC, on the other hand, KCC has had riots and there was a master was lost within two years of operation.

6 RESEARCH CONCLUSIONS

6.1 INTRODUCTION

Chapter six of the research study discusses research conclusions, this chapter will provide research conclusions based on the research findings and analyses in chapter five. The chapter will also provide recommendation, based on the research findings, whether or not the department should pursue more PPP prisons.

In chapter one, we have discussed that the objectives of this research study was to compare and contrast two procurement methods for security services in South Africa, as well as to compare and contrast the quality of security services in each correctional centre. This chapter will conclude on the research findings to determine if the research objectives have been met.

6.2 RESEARCH CONCLUSIONS

The research conclusions for the competitive case study titled: Enhancing procurement of security services, a comparative case study of Mangaung and Kimberly Correctional Centre are discussed below. Chapter two of this research discussed the theoretical frame work and the literature review. From this chapter, it emanated that one of the main purpose for government and government department to venture into PPP was to “off budget finance” and to leverage the budget constraints from the department. To bring in capital from the private party.

Theoretically, PPPs were supposed to assist governments with their “off budget” finance. However, the research findings have revealed that this was not the case for this case study as the practically, the department was paying more for PPP prisons. It is rather more expensive for ppp prison other than normal prisons. Theoretically, the use of ppp prison was supposed to enhance service delivery and the research findings are not clear in identifying if this objective has been met.

This research methodology and scope of this research study was specifically a case study of the two correctional centres used, and the findings on this case study cannot be generally used as their specifically findings on these two ppp prisons. More research study will need to be conduct to obtain further/general study or in other circumstances.

The research findings, as discussed in chapter five are that the costs of operating and running the Mangaung Correctional Centre are exorbitant and when compared with another similar prison, like Kimberly Correctional Centre, which is very similar, the main reasons for the high escalation costs on the PPP prison could be because there was no feasibility study conducted before the contracts were signed. The department could not determine the affordability of the contract.

It appears from the research findings that the cost benefit analysis was also not conducted on this PPP prison. In terms of research findings, the cost per inmate per day has increased by a percentage of 188.28 per cent for a period of eleven years from 2002 to 2012. The research findings also revealed that this increase is only attributable to price increases and there have been no changes in both the quality and quantity of service provided. So for a country like South Africa, that still has basic needs that it needs to address, like eradicating poverty,

provision of education and health services to its citizen, the government could have used in other priority areas.

The most important lesson that our government should learn, especially from the PPP contracts, and any contracts that are for a long term is that it is important to scrutinise the terms of the contract, these contracts shouldn't be rushed to before they are signed. An observation that has been made throughout the research process is that there was no thorough thought about the implications of the terms and conditions of the contract. The then Minister of Correctional Services, Honourable Nosiviwe Mapisa-Nqakula, even confirmed before a joint committee meeting of the Standing Committee on Public Accounts and Portfolio Committee on Correctional Services that the department does not know what to do with the PPP prisons because they are very expensive and they cost a lot more compared with other public prisons, even with the new generation prisons, which are very similar to the PPP prisons but are run and operated by the government, (PMG, 2011). The Minister even suggested that if the department had a way, it was going to terminate the contracts for the PPP prisons, but because there are heavy cancellation penalties that the department will have to pay to the private party, so cancellation was also not an option for the government. To me, it appears that the people who represented government during the negotiation stage did not point key issues, like cancellation clauses that are unfavourable for our government. Perhaps this is a key lesson that should be learnt, going forward before signing any major contracts with the government.

This has led to the current government administration "blaming" and "pointing fingers" the previous government administration, saying that they have carried the debts of the previous administration, (Portfolio Committee on Correctional Service, 2011). The fact of the matter is that before the state is now obliged by this contract and this should be used as a learning curve and experience for the government and the government should be cautious going forward.

6.3 FINAL CONCLUSIONS

The main conclusion of this research study is that for the two correctional centres selected for the case study, the research findings are that it is very expensive to operate and maintain the Mangaung Correctional Centre, compared to the Kimberly Correctional Centre. Furthermore, the research findings did not show any difference in terms of the ratio of correctional official to the prisoner.

However, the research study found that in terms of efficiency on incarceration of prisoners, the Mangaung Correctional Centre appeared to be more efficient because there were no escapes that were reported in recent years, the number of assaults and deaths in this correctional centre were also minimal compared to the national statistics.

Therefore, the researcher concludes that, based on the research findings, the costs of security services for Mangaung Correctional Centre is more compared with Kimberly Correctional Centre. The research findings showed that affordability for the PPP prison is a challenge for government and due diligence should be taken into consideration before further venturing into PPP prison contract. A detailed feasibility study needs to be done before signing of any PPP contract. High escalation costs are probably the most drawback for this PPP prison.

In terms of efficiency and effectiveness, the research findings revealed that MCC is more efficient in keeping prisoners incarcerated and in terms of effectiveness, the findings did not find any difference between the two prisons.

For a developing country like South Africa, with budget constraints, and other basic needs it is best for government to prioritise funds in an economic manner, government should enter into contracts that it can afford with its limited budget.

6.4 RECOMMENDATIONS

Based on research findings the researcher recommends the following:

- The department should ensure that a detailed feasibility study is conducted prior to the awarding and signing any PPP prison contract. The research findings were that there was no feasibility done before the PPP prison contract was awarded to the concessionaire for building, maintaining and operating the prison. The affordability of the PPP prison was not determined because the feasibility study was not done. This is probable why the department was experiencing the affordability constraints with MCC.
- Representatives of South African Government who are directly involved in the negotiations of these contracts should ensure that they scrutinise these contracts to determine any clauses that are unreasonable for government. Clauses like, the ability to re-negotiate the contract should the need arise. One of the arguments that was made against the PPP prison was that the terms and conditions of the contract, were in favour of the private party, which have put the government at disadvantage.
- Government negotiators engaging on huge projects should be adequately empowered and should be provided with training and some leverage in understanding technical project matter, especially in the areas of legal and finance.
- There should be strong controls on project management to ensure that the contracts are completed on time and within the budget. The project manager should also determine and report if the projects are becoming “too expensive”.
- The Department of Correctional Services should ensure that it monitors and evaluates both private and public contracts on an ongoing basis.

7. RECOMMENDATIONS FOR FUTURE RESEARCH

The research study titled: Enhancing procurement of security services: A comparative study of Mangaung and Kimberly Correctional Centre is intended to serve as a basis for more research studies. This research did not cover some areas due to research limitations and the scope as discussed in previous chapters. This research is limited to the security services in these two correctional centres. Further research studies need to be explored more in the area of security services and corrections.

The recommendations for future research study in the following specific areas:

- A comparative case study on security services between two PPP prisons in South Africa.
- A comparative study on other non-core services.
- Privatisation of non-core services in South African prisons.
- Enhancing health care services in South African prison.
- Training and rehabilitation in South African
- Enhancing procurement of security services: A comparative case study between Kutuma Sinthumule Correctional Centre and another public prison.
- A quantitative research on privatisation of core services in South Africa prisons.
- A comparative case study of security services between two private prisons in South Africa.

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